

2019

# ANNUAL REPORT

NEW YORK STATE ASSEMBLY



CARL E. HEASTIE, Speaker

AILEEN M. GUNTHER, Chair



100<sup>th</sup> District

# THE ASSEMBLY STATE OF NEW YORK ALBANY

CHAIR Mental Health

CHAIR Subcommittee on Women's Health

COMMITTEES
Agriculture
Environmental Conservation
Health
Racing and Wagering
Real Property Taxation

December 15, 2019

Honorable Carl E. Heastie Speaker of the Assembly Legislative Office Building, Room 932 Albany, New York 12248

Dear Mr. Speaker:

It is my duty and privilege to submit to you the 2019 Annual Report for the Assembly Standing Committee on Mental Health. This upcoming year, the State is potentially facing a great fiscal challenge due to a deficit that could amount to billions of dollars. The Committee is also cognizant that every budget cycle requires the state to utilize its fiscal resources to meet the needs of its citizens, each whom have unique priorities and demands.

For these reasons, the Committee will continue to engage with the mental health and developmental disability service communities, and will strongly advocate to the members of the Legislature and the Executive, to ensure that a sufficient amount of resources will be allocated to the Office of Mental Health (OMH) and the Office for People with Developmental Disabilities (OPWDD) so that programs are funded properly, individuals receive quality care, and services are readily available.

The Committee is dedicated to advancing legislation which supports the needs and rights of individuals with mental illness and developmental disabilities and their families. It continues to strive to ensure the highest quality of care and safety for individuals served in the mental hygiene system.

In closing, I would like to thank you for your leadership and support of the Assembly Standing Committee on Mental Health and I look forward to a productive 2020 Legislative Session.

Aileen M. Gunther

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Chair

Assembly Standing Committee on Mental Health

# 2019 ANNUAL REPORT OF THE NEW YORK STATE ASSEMBLY STANDING COMMITTEE ON MENTAL HEALTH AND DEVELOPMENTAL DISABILITIES

#### Aileen M. Gunther Chair

#### **Committee Members**

#### <u>Majority</u>

Ellen Jaffee
Robert Rodriguez
Didi Barrett
Kimberly Jean-Pierre
Diana Richardson
Angelo Santabarbara
Carmen De La Rosa
Nathalia Fernandez
Mathylde Frontus

## **Minority**

Melissa Miller Mary Beth Walsh John Mikulin

#### **Committee Staff**

Thomas Gatto, Legislative Director and Committee Clerk

#### **Program and Counsel Staff**

Jennifer Sacco, Assistant Secretary for Program and Policy Willie Sanchez, Principal Analyst Janice Nieves, Associate Counsel Sarah Conklin, Secretary

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#### I. INTRODUCTION

The Assembly Standing Committee on Mental Health has jurisdiction over policy and initiatives affecting programs that deliver services, care, treatment, and advocacy for individuals with various disabilities. The Committee focuses on ensuring that individuals with a mental illness or a developmental disability are provided appropriate and necessary services to live a fulfilling life and are protected from abuse or harm in institutional and community settings.

The Committee has legislative oversight of programs administered and licensed by the State Office of Mental Health and the State Office for People with Developmental Disabilities. The Committee also has statutory oversight of the Justice Center for the Protection of People with Special Needs (Justice Center), the Developmental Disabilities Planning Council (DDPC), the Inter-Office Coordinating Council (IOCC), and the Most Integrated Setting Coordinating Council (MISCC).

The aforementioned agencies are expected to serve nearly one million individuals in 2020-21, including persons with mental illness, individuals with developmental disabilities, and their families. The Committee also works closely with the New York State Assembly Standing Committee on Alcoholism and Drug Abuse, the Assembly Standing Committee on Veterans Affairs, the Assembly Standing Committee on Correction, and the Task Force on People with Disabilities.

During the 2019 session, the Committee reviewed a number of bills and addressed many issues aimed at providing quality services, enhancing protections, and increasing access to services for individuals with various disabilities.

This report describes the Committee's major legislative activities during the 2019 session.

#### II. STATE BUDGET HIGHLIGHTS

Over the past several years, the mental hygiene service system has experienced sweeping changes to funding structures of programs under the auspices of OMH and OPWDD. The State Fiscal Year (SFY) 2019-2020 enacted budget provides critical resources for individuals with mental illness, developmental disabilities, and their families. Within OMH and OPWDD, the following proposals and appropriations were enacted in the 2019-20 budget:

#### A. Workforce Wage Increase

The Enacted Budget provided funding for salary increases for direct support professionals, direct care workers, and clinical staff employed by OMH, the Office of Addiction Services and Supports (OASAS), and OPWDD. Direct care and direct support staff would receive a 2.0 percent increase on January 1, 2020, and direct care workers, direct support professionals, and clinical staff would receive another 2.0 percent increase on April 1, 2020, for a total of \$80 million. OMH providers are estimated to receive \$1.2 million SFY 2019-20, and OPWDD providers are estimated to receive \$8.4 million.

#### **B.** Veterans Mental Health Services

The Enacted Budget provides \$4.04 million to restore and expand services under the Joseph P. Dwyer Peer Pilot Program.

#### **C.** Supported Housing Resources

The enacted budget provides \$10 million in new funding to preserve access to existing supported housing and single residence occupancy (CR-SRO and SP-SRO) programs. The funding will mainly be used to increase rental stipends to the supported housing rate.

#### D. Services for Individuals with Developmental Disabilities

The Enacted Budget allocates \$30 million to support the development of new community-based services opportunities, and requires at least \$5 million to support services specifically for individuals that are living at home and whose caregivers are increasingly unable to provide care for them.

#### E. Behavioral Health Ombudsman Program

The Enacted Budget continues \$1.5 million to maintain the operation of an independent behavioral health ombudsman program. The program educates individuals, families, and health care providers on their legal rights to coverage, help them to access treatment and services and will investigate and resolve complaints regarding denial of health insurance coverage.

#### III. SIGNIFICANT LEGISLATION

#### 1. Monitoring Suicide Prevention Programs

A.6471 (Cruz)/S.2403 (Carlucci) Chapter 630

This law requires OMH to periodically review suicide prevention programs established, licensed, certified, or funded by the office to ensure that the needs of individuals at risk of suicide are being met and make recommendations to improve such programs. The improvements of any program would emphasize cultural and linguistic competency and best practices for screening and interventions which target minority groups and other underrepresented populations.

#### 2. Suicide Prevention for High Risk Populations

A.7564-B (Fernandez)/S.6406-A (Sepulveda) Chapter 626

This law requires OMH to prepare and submit a report by December 1, 2019, and biennially thereafter to the Governor, the speaker of the assembly, and the temporary president of the senate. Such report would describe the progress made by the office in the development of its suicide prevention plans, programs, and services which consider the unique needs of certain demographic groups including the impact of gender, race and ethnicity, and cultural and language needs.

The report would also include specific suicide prevention service and program initiatives developed and implemented to address the needs of high-risk minority groups or special populations, including Latina and Latino adolescents, veterans, members of the lesbian, gay, bisexual and transgender community, and any other group OMH considers to be high risk or undeserved.

#### 3. Enhancement of the Achieving a Better Life Experience (ABLE) Accounts

A.7473 (Gunther)/S.6238 (Carlucci) Chapter 545

This law increases the allowable maximum account balance in the NY ABLE Program to an amount equal to the federally authorized level for the 529 College Savings Program.

#### 4. Public Education Campaign for Veterans

A.2758-A (Ortiz) / S.3200-A (Parker) Chapter 378

This law requires the commissioner of OMH, in conjunction with the commissioner of the OASAS and Director of the Division of Veterans' Services to create a public education

initiative designed to eliminate stigma and misinformation about mental illness and chemical dependence among service members, veterans, and their families.

#### 5. Guardianship Program Eligibility

A.4109-B (Gunther) / S.4285-A (Carlucci) Chapter 579

This law eliminates the current statutory process for a community guardian program to determine eligibility of an individual currently in such program through an evaluation completed by a psychiatrist or psychologist. Instead, this bill would replace such process by requiring a community guardian to obtain annually, a statement prepared by a physician, psychologist, nurse clinician, or social worker, or other person evaluating the condition and functional level of a person for whom the community guardian program serves as guardian pursuant to paragraph five of subdivision (b) of §81.31 of the Mental Hygiene Law.

# 6. Access to Eligibility Requirements for Individuals with Developmental Disabilities

A.6344-A (Gunther)/S.5347 (Carlucci) Chapter 542

This law requires the commissioner of the OPWDD to make available on the office's website, information regarding the process for individuals to obtain eligibility for services and to seek access to services, including, but not limited to, residential, respite, employment, habilitation, and self-directed services.

## 7. Reporting Incidents of Abuse or Neglect

A.1370-C (Abinanti) / S.5121-A (Carlucci) Chapter 535

This law requires that all programs licensed, certified or operated by OPWDD, post visible notices informing employees that "in case of an emergency, dial 911".

#### 8. Expanding Legal Representation for Individuals with a Serious Mental Illness

A.4482 (Cusick)/S.3766 (Parker) Chapter 658

This law authorizes Mental Hygiene Legal Services to provide legal assistance to patients or residents who have a serious mental illness, have been discharged directly from a mental hygiene facility to a health care facility licensed pursuant to Article 28 of the Public Health Law and are currently receiving mental health services.

#### 9. Rural Suicide Task Force

A.6007 (Barrett)/S.2070 (Metzger) Veto 210

This bill would create the "rural suicide prevention council".

#### 10. Replacing Outdated Terminology in Statute

A.6174 (Gunther)/S.4276 (Skoufis) Chapter 672

This law makes technical amendments that would ensure that references to the Office of Mental Retardation and Developmental Disabilities are updated to reflect the Office's current name.

#### 11. Supportive Housing Commission

A.7489-A (Gunther)/S.5637-A (Carlucci) Veto 185

This bill would establish a temporary commission to make recommendations related to the adequacy of funding levels and need for sufficient staffing in all supportive housing that falls under the auspices of OMH, and requires that the commission report on its findings to the Governor and the Legislature no later than October 1, 2020.

#### 12. Crisis Respite Services

A.8014 (Richardson)/S.6486 (Myrie) Veto 143

This bill would require the commissioner of OMH to furnish and issue a report to the governor, the speaker of the assembly and temporary president of the senate, no later than one year after the effectuation of this section, on information as it relates to the need statewide for short-term and intensive mental health crisis respite programs.

#### 13. Black Suicide Prevention Task Force

A.6740-B (Jean-Pierre)/S.4467-B (Carlucci) Veto 199

This bill would establish the Black suicide prevention task force to examine, evaluate, and determine how to improve mental health and suicide prevention for New York's Black youth.

#### IV. HEARINGS & ROUNDTABLES

#### A. SUICIDE PREVENTION SUPPORTS AND SERVICES

Suicides have increased significantly across the United States, including in New York State. In June 2017, the Centers for Disease Control and Prevention released a report indicating that in New York State, suicide rates increased 29.1% from 1999 to 2016. In response, New York State has developed a health improvement plan which includes suicide prevention as one of its focus areas. The plan is updated by the New York State Public Health and Health Planning Council at the request of the Department of Health.

Additionally, in November 2017, the Governor established the New York State Suicide Prevention Task Force which placed an emphasis on high-risk groups such as veterans, Latina adolescents, and members of the LGBTQ community. The task force released a report this April with several recommendations which aim to strengthen New York's suicide prevention efforts.

On December 9, 2019, the Assembly Standing Committee on Mental Health, in conjunction with the Standing Committees on Health and Veterans' Affairs, convened a hearing on suicide prevention services and supports. The purpose of the hearing was to provide an opportunity for the committees to gather information on current suicide prevention efforts, gain a better understanding of how the state will implement the recommendations made by the Governor's task force and examine the ability of the state to develop and coordinate interagency suicide prevention programs.

The committee received testimony from the New York State Office of Mental Health (OMH), service providers, advocacy organizations, parents, and other stakeholders from the mental health and veterans' community.

Many of the witnesses who testified expressed a need for services which are tailored to meet the local needs of its community. They also noted that there are numerous local programs which have proven to be effective and they are hopeful that they can be replicated and expanded statewide. There were also requests for additional resources to be dedicated to creating a statewide awareness campaign on suicide prevention and enhancing school-based suicide prevention programs.

# APPENDIX A

# 2019 SUMMARY OF ACTION ON ALL BILLS REFERRED TO THE COMMITTEE ON

Mental Health			
TOTAL NUMBER OF COMMITTEE MEETINGS HELD	5		
	ASSEMBLY	SENATE	TOTAL
	BILLS	BILLS	BILLS
BILLS REPORTED FAVORABLE TO:			
Codes	6	0	6
Judiciary	0	0	0
Ways and Means	14	0	14
Rules	5	0	5
Floor	2	0	2
TOTAL	27	0	27
COMMITTEE ACTION			
Held For Consideration	0	0	0
Defeated	0	0	0
Enacting Clause Stricken	0	0	0
REMAINING IN COMMITTEE	61	8	69
BILLS REFERENCE CHANGED TO:	•		
TOTAL	0	0	0

# APPENDIX B

# FINAL ACTION ON BILLS REPORTED BY THE STANDING COMMITTEE ON MENTAL HEALTH AND DEVELOPMENTAL DISABILITIES IN 2019

ASSEMBLY BILL # SPONSOR	SENATE BILL # SPONSOR	FINAL ACTION	Description
A.1370-C Abinanti	S.5121-A Carlucci	Chapter 535	This law requires that all programs licensed, certified or operated by OPWDD, post visible notices informing employees that "in case of an emergency, dial 911".
A.2077 Gunther	S.3757 Carlucci	Referred to the Assembly Committee on Ways and Means	This bill would authorize OPWDD to implement a professional credential pilot program for direct support professionals in the Developmental Disability field.
A.2164 Gunther	S.4104 Carlucci	Referred to the Assembly Committee on Ways and Means	This bill would establish housing navigation as a service in New York's developmental disabilities sector and require the Commissioner of OWPDD to develop a housing navigation training curriculum, oversee the implementation of such curriculum, and provide statewide training to individuals for the provision of housing navigation services.
A.2278 Gunther	S.4272 Carlucci	Referred to the Assembly Committee on Codes	This bill would require the commissioner of the New York State Office of Mental Health (OMH) to promulgate regulations in compliance with HIPAA on releasing certain records of a deceased individual who resided in a facility operated or certified by OMH, to a family member upon a written request. The records will not be released if the individual who was in care objected in writing to the release of their records.  The bill also would authorize the release of an individual's record upon written request of a physician for a family member, who has a demonstrable medical need and it is relevant to their own health care. The commissioner of OMH is required to promulgate regulations to define family member for the purposes of this section.
A.2758-A Ortiz	S.3200-A Parker	Chapter 378	This law requires the commissioner of OMH, in conjunction with the commissioner of the OASAS and Director of the Division of Veterans' Services to create a public education initiative designed to

ASSEMBLY BILL # SPONSOR	SENATE BILL # SPONSOR	FINAL ACTION	Description
			eliminate stigma and misinformation about mental illness and chemical dependence among service members, veterans, and their families.
A.2761-A Fernandez	S.3806-A Ramos	Referred to the Assembly Committee on Rules	This bill would create the Latina Suicide Prevention Task Force.
A.3402 Gunther	S.4255 Carlucci	Passed the Assembly	This bill would prevent monetary awards arising from judgments or settlements as a result of a cause of action against state employees or officials to be used to pay for their care and treatment.
A.3529 Gunther	S.4105 Carlucci	Referred to the Assembly Committee on Codes	This bill would require the installation of video cameras at the entrances and exits of residences operated or licensed by OPWDD.
A.4109-B Gunther	S.4285-A Carlucci	Chapter 579	This law requires a community guardian to obtain annually, a statement prepared by a physician, psychologist, nurse clinician, or social worker, or a person not affiliated with the program and acting within their scope of practice, evaluating the condition and functional level of a person for whom the community guardian program serves as guardian.
A.4482 Cusick	S.3766 Parker	Chapter 658	This law authorizes Mental Hygiene Legal Services to provide legal assistance to patients or residents who have a serious mental illness, have been discharged directly from a mental hygiene facility to a health care facility licensed pursuant to Article 28 of the Public Health Law and are currently receiving mental health services.
A.6007 Barrett	S.2070 Barrett	Veto 210	This bill would create the rural suicide prevention council.
A.6174 Gunther	S.4276 Skoufis	Chapter 672	This law makes technical corrections to references to the office for people with developmental disabilities.
A.6344-A Gunther	S.5347 Carlucci	Chapter 542	This law requires the commissioner of the OPWDD to make available on the office website, information regarding the process for individuals to obtain eligibility for services and to seek access to services, including, but not limited to, residential, respite, employment, habilitation, and self-directed services.
A.6471 Cruz	S.2403 Carlucci	Chapter 630	This law requires OMH to periodically review suicide prevention programs established, licensed, certified, or funded by the office to ensure that the needs of individuals at risk of suicide are being met

ASSEMBLY BILL # SPONSOR	SENATE BILL # SPONSOR	FINAL ACTION	Description
			and make recommendations to improve such programs; and emphasize cultural and linguistic competency and best practices for screening and interventions which target minority groups and other underrepresented populations.
A.6740-B Jean-Pierre	S.4467-B Carlucci	Veto 199	This bill would establish a Black youth suicide prevention task force.
A.7199 Gunther	S.5135 Carlucci	Veto 223	This bill would require OPWDD to provide timely notification when they suspend services at a state-operated individualized residential alternative.
A.7473 Gunther	S.6238 Carlucci	Chapter 545	This law increases the allowable maximum account balance in the NY ABLE Program to an amount equal to the federally authorized level for the 529 College Savings Program.
A.7487 Gunther	S.5638 Carlucci	Referred to the Assembly Committee on Ways and Means	This bill would authorize the commissioner of OMH to reimburse supportive housing programs under his or her jurisdiction for the reasonable cost of rent, a mortgage payment, or the principal and interest payment on a loan, related to a supportive housing program's ownership of a property.
A.7489-A Gunther	S.5637-A Carlucci	Veto 185	This bill would establish a temporary commission to make and issue a report no later than October 1, 2021, to the Legislature and the Governor with recommendations related to the adequacy of funding levels and need for sufficient staffing in all supportive housing that falls under the auspices of OMH.
A.7564-B Fernandez	S.6406-A Sepulveda	Chapter 626	This law requires OMH to prepare and submit a report on the development of plans, programs, and services to prevent and reduce suicide/suicidal behaviors, as well as a report on prevention services and program initiatives directed towards high-risk minority groups and demographics.
A.7611 Gunther	S.5491 Carlucci	Veto 188	This bill would require the commissioner of OMH to provide monthly status reports of the community investments and the impact on inpatient census.
A.7728 Buttenschon	NA	Referred to the Assembly Committee on Ways and Means	This bill would establish the office of the independent intellectual and developmental disability ombudsman program.
A.7935 Gunther	S.6694 Carlucci	Referred to the Assembly	This bill would establish a workgroup to conduct analysis on the ambulatory patient group rates and

ASSEMBLY BILL # SPONSOR	SENATE BILL # SPONSOR	FINAL ACTION	Description
		Committee on	commercial insurance rates for behavioral health
		Ways and Means	services.
A.7938-B	S.6394	Referred to	This bill would require certain entities to check the
Fernandez	Carlucci	the Assembly	justice center's register of substantiated category one
		Committee on Codes	cases of abuse or neglect.
A.7951	NA	Referred to	This bill would establish the Division for Mental
De La Rosa		the Assembly	Health Treatment Equity.
		Committee on	
		Ways and	
		Means	
A.8014	S.6486	Veto 143	This bill would require the commissioner of OMH to
Richardson	Myrie		issue a report on short-term crisis respite programs
			and intensive crisis respite programs.
A.8087	S.6164-A	Chapter 306	This law authorizes the commissioner of
Gunther	Carlucci		OMH to approve or disapprove an application made
			by a patient in its custody for transfer to a foreign
			nation.

# APPENDIX C

# **LAWS ENACTED IN 2019**

ASSEMBLY BILL # SPONSOR	SENATE BILL # SPONSOR	FINAL ACTION	DESCRIPTION
A.1370-C Abinanti	S.5121-A Carlucci	Chapter 535	This law requires that all programs licensed, certified or operated by OPWDD, post visible notices informing employees that "in case of an emergency, dial 911".
A.2758-A Ortiz	S.3200 Parker	Chapter 378	This law requires the commissioner of OMH, in conjunction with the commissioner of the Office of Addiction Services and Supports (OASAS) and Director of the Division of Veterans' Affairs (DVA) to create a public education initiative designed to eliminate stigma and misinformation about mental illness and chemical dependence among service members, veterans, and their families.
A.4109-B Gunther	S.4285-A Carlucci	Chapter 579	This law eliminates the current statutory process for a community guardian program to determine eligibility of an individual currently in such program through an evaluation completed by a psychiatrist or psychologist. Instead, this bill would require a community guardian to obtain annually, a statement prepared by a physician, psychologist, nurse clinician, or social worker, or other person evaluating the condition and functional level of a person for whom the community guardian program serves as guardian pursuant to paragraph five of subdivision (b) of §81.31 of the Mental Hygiene Law.
A.4482 Cusick	S.3766 Parker	Chapter 658	This law authorizes Mental Hygiene Legal Services to provide legal assistance to patients or residents who have a serious mental illness, have been discharged directly from a mental hygiene facility to a health care facility licensed pursuant to Article 28 of the Public Health Law and are currently receiving mental health services.
A.6174 Gunther	S.4276 Skoufis	Chapter 672	This law makes technical corrections to references to the office for people with developmental disabilities.
A.6344-A Gunther	S.5347 Carlucci	Chapter 542	This law requires the commissioner of the OPWDD to make available on the office website, information regarding the process for individuals to obtain eligibility for services and to seek access to services, including, but not limited to, residential, respite, employment, habilitation, and self-directed services.
A.6471 Cruz	S.2403 Carlucci	Chapter 630	This law requires the Office of Mental Health (OMH) to periodically review suicide prevention programs established, licensed, certified, or funded by the office to

ASSEMBLY BILL # SPONSOR	SENATE BILL # SPONSOR	FINAL ACTION	DESCRIPTION
			ensure that the needs of individuals at risk of suicide are being met and make recommendations to improve such programs; and emphasize cultural and linguistic competency and best practices for screening and interventions which target minority groups and other underrepresented populations.
A.7473 Gunther	S.6238 Carlucci	Chapter 545	This law increases the allowable maximum account balance in the NY ABLE Program to an amount equal to the federally authorized level for the 529 College Savings Program.
A.7564-B Fernandez	S.6406-A Sepulveda	Chapter 626	This law requires OMH to prepare and submit a report on the development of plans, programs, and services to prevent and reduce suicide/suicidal behaviors, as well as a report on prevention services and program initiatives directed towards high-risk minority groups and demographics.
A.8087 Gunther	S.6164-A Carlucci	Chapter 306	This law authorizes the commissioner of OMH to approve or disapprove an application made by a patient in its custody for transfer to a foreign nation.

# APPENDIX D LEGISLATION VETOED IN 2019

ASSEMBLY BILL # SPONSOR	SENATE BILL # SPONSOR	FINAL ACTION	DESCRIPTION
A.6007	S.2070	Veto 210	This bill would create the rural suicide prevention
Barrett	Barrett		council.
A.6740-B	S.4467-B	Veto 199	This bill would establish a Black youth suicide prevention
Jean-Pierre	Carlucci		task force.
A.7199	S.5135	Veto 223	This bill would require OPWDD to provide timely
Gunther	Carlucci		notification when they suspend services at a state-
			operated individualized residential alternative.
A.7489-A	S.5637-A	Veto 185	This bill would establish a temporary commission to
Gunther	Carlucci		make recommendations related to the adequacy of
			funding levels and need for sufficient staffing in all
			supportive housing that falls under the auspices of OMH,
			and requires that the commission report on its findings to
			the Governor and the Legislature no later than October 1,
			2020.
A.7611	S.5491	Veto 188	This bill would require the commissioner of OMH to
Gunther	Carlucci		provide monthly status reports of the community
			investments and the impact on inpatient census.
A.8014	S.6486	Veto 143	This bill would require the commissioner of OMH to
Richardson	Myrie		issue a report on short-term crisis respite programs and
			intensive crisis respite programs.