

New York State Assembly

Carl E. Heastie

Speaker



Committee on
Mental Health

Aileen M. Gunther

Chair

2016

ANNUAL REPORT



Aileen M. Gunther
Member of Assembly
100th District

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STATE OF NEW YORK
ALBANY

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Mental Health

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Health

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December 15, 2016

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

Dear Mr. Speaker:

It is my privilege to submit to you the 2016 Annual Report for the Assembly Standing Committee on Mental Health and Developmental Disabilities. This year the state continued to take steps toward completing the transition of behavioral health and developmental disabilities services and supports from Medicaid fee-for-service to a managed care service delivery model. It will be essential for the Committee to continue to closely monitor this transition and engage with advocates and service providers to ensure that individuals receive quality care, and that programs are funded properly and meet the needs of those who require services.

The Committee continues to diligently watch other important changes occurring throughout the behavioral health and developmental disability systems, including the implementation of behavioral health organizations (BHOs), health homes, and the execution of New York's Olmstead Plan. The Committee will also continue to advocate alongside their colleagues in the Assembly Majority to secure additional funding for behavioral health and developmental disability programs to provide both a living wage for their staff and high quality supports and services to individuals with disabilities. Without an increase in funding, these programs will be unable to recruit and retain qualified staff, and further face the threat of severe economic hardship, putting at risk the service and support system which is responsible for the care and safety of some New York's most vulnerable citizens.

The Committee is dedicated to ensuring that the needs and rights of individuals with mental illness and developmental disabilities are kept at the forefront throughout many of these changes that will vastly impact the service delivery system.

During the 2016 Legislative Session, the Committee also reviewed numerous bills which focused on strengthening individual rights and requiring higher 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 Committee on Mental Health and Developmental Disabilities. I look forward to 2017 as we develop solutions to the challenges we face.

A handwritten signature in cursive script that reads "Aileen M. Gunther".

Aileen M. Gunther
Chair
Assembly Standing Committee on
Mental Health and Developmental Disabilities

**2016 ANNUAL REPORT
OF THE
NEW YORK STATE ASSEMBLY
STANDING COMMITTEE ON MENTAL HEALTH
AND DEVELOPMENTAL DISABILITIES**

**Aileen M. Gunther
Chair**

Committee Members

Majority

Didi Barrett
Michael Cusick
Philip Goldfeder
Ellen Jaffee
Kimberly Jean-Pierre
Angelo Santabarbara
John McDonald, III
Diana Richardson
Robert Rodriguez

Minority

Steven Katz– Ranking Member
Jane Corwin
Bill Nojay

Committee Staff

Allison Horan, Chief of Staff
Thomas Gatto, Legislative Director and Committee Clerk

Program and Counsel Staff

Rebecca Mudie, Assistant Secretary for Program and Policy
Willie Sanchez, Senior Analyst
Janice Nieves, Associate Counsel
Terri Zaleski, Secretary

TABLE OF CONTENTS

I. INTRODUCTION.....5

II. STATE BUDGET HIGHLIGHTS.....6

III. SIGNIFICANT LEGISLATION 2016.....8

APPENDIX A: 2016 Summary of Bill Actions.....11

APPENDIX B: Final Action on All Bills Reported by the Committee.....12

APPENDIX C: Laws Enacted in 2016.....15

APPENDIX D: Laws Vetoed in 2016.....17

I. INTRODUCTION

The Assembly Committee on Mental Health and Developmental Disabilities has jurisdiction over legislation affecting programs that provide 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 and those with multiple disabilities 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 (OMH) and the State Office for People with Developmental Disabilities (OPWDD). The Committee also has statutory oversight of the Justice Center for 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 2017-18, 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 2016 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 2016 session.

II. STATE BUDGET HIGHLIGHTS

Over the past several years, the mental hygiene service system has experienced significant cuts and sweeping changes to funding structures of programs under the auspices of the Office of Mental Health (OMH) and the Office for People with Developmental Disabilities (OPWDD). That being said, the State Fiscal Year (SFY) 2016-2017 enacted budget provides some relief and much-needed support for individuals with a mental illness and developmental disabilities and for those who care for these individuals. Within OMH and OPWDD, the following proposals and appropriations were enacted in the 2016-17 budget:

A. Increasing the Minimum Wage

The issue of providing a livable wage for all New Yorkers was a major topic of discussion throughout this year's budget negotiation. The enacted budget commits a total of \$8.4 million to support the needs of the OMH and OPWDD service providers. The Committee is in support of the budget agreement to phase in a \$15 per hour minimum wage. However, New York State must ensure that funding is made available to not-for-profit behavioral health and developmental disability service providers in a timely manner so they can fund the wages of their staff without negatively impacting the delivery of services.

B. Expanding Crisis Intervention Teams (CIT) and Diversion Programs

The budget provided \$1.5 million to support CIT training for law enforcement professionals, and to support the development of alternative mental health diversion programs. These programs train law enforcement for situations involving individuals with mental illness to help reduce the number of individuals unnecessarily hospitalized or arrested.

C. Supported Housing for Individuals with a Mental Illness

The budget provided \$38 million for supported housing and services for individuals with a mental illness who are currently living in an adult home. This initiative is designed to increase long-term housing options combined with individual support services for individuals with mental illness, which will facilitate the independence of each individual served.

D. Children's Mental Health Services

The budget committed \$7.5 million in new funding for the expansion of children's mental health services. These new services will include off-site services, crisis intervention, community psychiatric supports and treatment, psychosocial rehabilitation services, family peer and support services, and youth and peer support and training. This funding is expected to grow to \$30 million in SFY 2017-2018. These resources are essential to ensure a successful transition of children's mental health services into Medicaid managed care.

E. Person-Centered Services for Individuals with Developmental Disabilities

The budget provided \$30 million in state funding to administer new person-centered services for individuals with developmental disabilities, including certified and non-certified residential services, day supports, employment services, and respite services. As the state transitions away from institutional settings, increasing capacity for services in the community is critical to providing appropriate levels of care for this population.

F. Developmental Disability Crisis Services

The budget provided \$15 million for crisis services by expanding the NY-START model to other OPWDD regions. Currently utilized in in Regions 1 (Western NY) and 3 (Capital Region and Hudson Valley), NY-START is a community-based program that provides crisis prevention and response services to individuals with intellectual and developmental disabilities with complex behavioral health needs, as well as their families.

G. Health Care Transformation Program

The budget allocated \$195 million in capital funding for healthcare transformation statewide, and specifies that a minimum of \$30 million be provided to community-based health care providers, including diagnostic & treatment centers, mental health clinics, and alcohol and substance abuse treatment clinics.

III. SIGNIFICANT LEGISLATION

1. Access to Services for Individuals with an Autism Spectrum Disorder Diagnosis

A.171-A (Abinanti) / S.2562-A (Parker)

Passed Assembly

This bill would require the Commissioners of OPWDD, the State Department of Education (DOE), the Department of Health (DOH), the Office of Children and Family Services (OCFS), and OMH, to study and issue a report on the cost of early diagnosis of autism spectrum disorder and long-term treatment for individuals with autism spectrum disorder.

2. Developmental Disability Service Provider Employee Training Curriculum

A.777-A (Gunther) / S.2466-A (Ritchie)

Passed Assembly

This bill would require the commissioner of OPWDD to develop an educational curriculum for all providers operated or licensed by the agency. The educational curriculum must include training in abuse, neglect and maltreatment indication and prevention; laws, regulations and procedures governing the protection of persons with disabilities from abuse; neglect and maltreatment; identification, safety and security procedures; fire safety; first aid; cardiopulmonary resuscitation; cultural competence, and: any other appropriate topic. In developing such curriculum, the commissioner shall conduct a literature review of reports, studies and other models regarding the training of direct care workers who work with individuals with disabilities.

3. Legal Services for Individuals with a Serious Mental Illness

A.1459 (Cusick) / S.1907 (Parker)

Passed the Assembly

This bill would ensure adequate legal representation for individuals diagnosed with a serious mental illness by authorizing Mental Hygiene Legal Services to provide legal assistance to patients or residents who are discharged from a mental hygiene facility to a health care facility licensed pursuant to Article 28.

4. Right to Counsel for Individuals with Developmental Disabilities

A.3866 (Brennan)

Passed the Assembly

This bill would establish the right to legal representation for any person receiving services from a program licensed or operated by OMH or OPWDD and is interviewed as part of an investigation by the Justice Center for the Protection of People with Special Needs. Such representation would be provided by either Mental Hygiene Legal Services or privately retained counsel.

5. Legal Representation for Individuals with a Mental Health Diagnosis

A.5431 (O'Donnell)

Passed by the Assembly

This bill would provide access to mental health records for attorneys that are representing inmates in disciplinary hearings and other proceedings, who currently reside in a correctional special housing unit or a residential mental health housing unit.

6. Reducing Stigma against Mental Illness

A.6386-A (Gunther) / S.840-A (Robach)

Chapter 246

This law authorizes the Commissioner of OMH and OMH facility directors to release information for the purpose of marking the graves of former patients of OMH facilities.

7. Improving Safety and Quality of Care for Out of State Placements

A.7226-A (Gunther) / S.7584 (Ortt)

Chapter 107

This law authorizes the Justice Center to visit, inspect, and appraise the management of residential schools and facilities outside of New York State that serve New York residents.

8. Mitigating Neglect and Abuse in Developmental Disability Service Settings

A.7533 (Abinanti) / S.7188 (Avella)

Passed Assembly

This bill would require programs subject to regulation by OPWDD, to post a visible notice informing employees to call 911 in the event of an emergency and directing them to make required reports relating to abuse or neglect to the Justice Center or to law enforcement.

9. Protection and Advocacy for Individuals with a Disability

A.9117 (O'Donnell) / S.6622 (Ortt)

Chapter 453

This law provides the agency charged with providing protection and advocacy services with access to clinical mental health records, free of charge.

10. Improving Transparency of Services and Supports Provided by OPWDD

A.10053-A (Gunther) / S.7644 (Ortt)

Chapter 250

This law requires OPWDD to publish quarterly updates on the progress of the State's Olmstead implementation plan on its public website.

11. Assisting in the Implementation of the ABLE Act

*A.10206 (Gunther) / S.7882 (Carlucci)
Chapter 149*

This law will facilitate the implementation of the New York State ABLE Savings Account Program by authorizing the Comptroller to contract with the existing third party administrator of the NYS College Choice Tuition Savings Program for the purpose of administering the NY ABLE Savings Account Program, and provide the Comptroller with the option to permit the programs to be administered jointly or separately by a 3rd party vendor.

12. Direct Support Professional Workforce Development

*A.10409 (Gunther) / S.7677-A (Ortt)
Veto Memo 215*

This bill would direct the Commissioners of OPWDD and DOH to identify the causes and determine the impact of high vacancy and turnover rates for non-profit providers delivering supports and services to individuals with intellectual and developmental disabilities, and identify the resources necessary to maintain a quality workforce in the direct support professional field.

13. Removing Barriers to Developmental Disability Services for Dependents of Military Service Members

*A.10461-A (Englebright) / S.6915-B (Ortt)
Chapter 488*

This law authorizes dependents of military service members to retain eligibility for services regardless of leaving the State, as long as they retain residency and remain eligible for services. This law also allows dependents residing out-of-state to be placed on the waiting list for services if they left the state due to the military service member's military assignment.

14. Ensuring Safe Care and Treatment Settings

*A.10556 (Titone) / S.7410-A (Carlucci)
Chapter 209*

This law authorizes OPWDD developmental centers to access criminal history information of individuals coming into care in order to assist clinicians and staff in making care and treatment decisions.

15. Improving Coordination and Services for Individuals with Autism

*A.10558 (Santabarbara) / S.8036-A (Nozzolio)
Chapter 469*

This law requires OPWDD to establish an Autism Spectrum Disorder (ASD) advisory board to review, identify, and monitor supports and services provided to individuals with ASD.

APPENDIX A

**2016 Summary of Action on All Bills Referred to
the Committee on Mental Health**

<u>FINAL ACTION</u>	<u>ASSEMBLY BILLS</u>	<u>SENATE BILLS</u>	<u>TOTAL BILLS</u>
<u>Bills Reported With or Without Amendment</u>			
To Floor; Not Returning to Committee	1	0	1
To Floor; Recommitted and Died	0	0	0
To Ways & Means	10	0	10
To Codes	5	0	5
To Rules	2	0	2
To Judiciary	0	0	0
TOTAL	18	0	18
<u>Bills Having Committee Reference Changed</u>	1	0	1
TOTAL	19	0	19
<u>Senate Bills Substituted or Recalled</u>			
Substituted		1	1
Recalled			
Total		1	1
Bills Defeated in Committee	0	0	0
Bills Held For Consideration With A Roll-Call Vote	5	0	5
Bills Never Reported, Held in Committee	66	12	78
Bills Having Enacting Clauses Stricken	5	0	5
Motions to Discharge Lost	0	0	0
TOTAL BILLS IN COMMITTEE	95	14	109
Total Number of Committee Meetings Held	6		

APPENDIX B

**FINAL ACTION ON BILLS REPORTED BY THE STANDING COMMITTEE ON
MENTAL HEALTH AND DEVELOPMENTAL DISABILITIES IN 2016**

ASSEMBLY BILL # SPONSOR	SENATE BILL # SPONSOR	FINAL ACTION	Description
A.1059 Gunther	S.3623 Ortt	Reported to the Assembly Committee on Codes	This bill would require video cameras to be placed on the entrances/exits of all facilities operated by OPWDD.
A.3108 Peoples- Stokes	S.1488 Parker	Reported to the Assembly Committee on Ways and Means	This bill would enact the minority mental health act and establish the division of minority mental health within the OMH.
A.3854 Brennan	S.1784 Espaillat	Advanced to 3 rd reading	This bill would prohibit moneys awarded as damages or obtained by judgment or settlement as a result of a cause of action commenced against officers or employees of OMH to be considered assets for the purpose of determining the ability of an individual to pay for services; and reassure that such moneys shall not be seized or offset for the purposes of paying fees for services rendered by OMH.
A.3866 Brennan	N/A	Passed Assembly	This bill would provide the right to counsel for persons who receive services through OMH or OPWDD for the purpose of participating in certain investigations.
A.5846 Ortiz	S.2465 Ritchie	Reported to the Assembly Committee on Codes	This bill would require fees for services rendered to patients in state inpatient facilities pursuant to court orders to be paid by the county in which the court is located for the first thirty days.
A.6386-A Gunther	S.840-A Robach	Chapter 246	This law authorizes the Commissioner of OMH and OMH facility directors to release information for the purpose of marking the graves of former patients of OMH facilities.
A.9117 O'Donnell	S.6622 Ortt	Chapter 453	This law provides the agency charged with providing protection and advocacy services with access to clinical mental health records, free of charge.
A9171-A Gunther	S.8101 Carlucci	Chapter 120	This law is a negotiated chapter amendment to chapter 576 of the laws of 2015 which authorized the state to establish a NY ABLE savings account. This chapter amendment significantly limits the fiscal impact on the state by eliminating the tax

ASSEMBLY BILL # SPONSOR	SENATE BILL # SPONSOR	FINAL ACTION	Description
			deduction provided for deposits into the account of a designated beneficiary.
A.9620-A Gunther	S.6916-A Ortt	Chapter 375	This law requires the commissioner of the OMH to develop detailed definitions of degrees of injuries that may result from attacks by persons confined to state forensic psychiatric centers.
A.10053-A Gunther	S.7644 Ortt	Chapter 250	This law requires OPWDD to publish quarterly updates on the progress of the State's Olmstead implementation plan on its public website.
A.10206 Gunther	S.7882 Carlucci	Chapter 149	This law authorizes the Comptroller to contract with the existing third party administrator of the NYS College Choice Tuition Savings Program for the purpose of administering the NY ABLE Savings Account Program and provide the Comptroller with the option to permit the programs to be administered jointly or separately by a 3rd party vendor.
A.10383 Harris	S.7414 Carlucci	Reported to the Assembly Committee on Codes	This bill would require additional service providers to consult the Staff Exclusion List ("SEL") register of substantiated category one cases of abuse or neglect maintained by the Justice Center prior to hiring employees or allowing persons to have regular and substantial contact with service recipients. It would also allow all providers to re-check it no more than once in any six-month period.
A.10409 Gunther	S.7677-A Ortt	Veto 215	This bill would direct the Commissioners of OPWDD and DOH to identify the causes and determine the impact of high vacancy and turnover rates for non-profit providers delivering supports and services to individuals with intellectual and developmental disabilities, and identify the resources necessary to maintain a quality workforce in the direct support professional field.
A.10461-A Englebright	S.6915-B Ortt	Chapter 488	This law authorizes dependents of military service members to retain eligibility for services regardless of leaving the State, as long as they retain residency and remain eligible for services. This law also allows dependents residing out-of-state to be placed on the waiting list for services if they left the state due to the military service member's military assignment.
A.10464 Gunther	S.7495 Akshar	Reported to the Assembly Committee on Ways and	This bill would require legislative approval for the closure of certain OMH, OPWDD, or Office for Children and Family Services (OCFS) facilities and institutions.

ASSEMBLY BILL # SPONSOR	SENATE BILL # SPONSOR	FINAL ACTION	Description
		Means	
A.10556 Titone	S.7410-A Carlucci	Chapter 209	This law authorizes the commissioner of OPWDD to access certain criminal history information contained in the central data facility established by the division of criminal justice services.
A.10557 Gunther	S.7622 Ortt	Veto 291	This bill would provide that the notice of closure for significant reductions at state operated hospitals and state operated research institutes be at least twelve months and at most one year and one month prior to commencing such service reduction.
A.10558-A Santabarbara	S.8036-A Nozzolio	Chapter 469	This law establishes the Autism Spectrum Disorders Advisory Council.

APPENDIX C

LAWS ENACTED IN 2016

ASSEMBLY BILL # SPONSOR	SENATE BILL # SPONSOR	FINAL ACTION	DESCRIPTION
A.6386-A Gunther	S,840-A Robach	Chapter 246	This law authorizes the Commissioner of OMH and OMH facility directors to release information for the purpose of marking the graves of former patients of OMH facilities.
A.7226-A Gunther	S.7584 Ortt	Chapter 107	This law will authorize the Justice Center for the Protection of People with Special Needs (Justice Center) to visit, inspect, and appraise the management of residential schools and facilities outside of New York State that serve New York residents.
A.9117 O'Donnell	S.6622 Ortt	Chapter 453	This law provides the agency charged with providing protection and advocacy services with access to clinical mental health records, free of charge.
A.9171-A Gunther	S.8101 Carlucci	Chapter 120	<p>This bill is a chapter amendment to chapter 576 of the laws of 2015 which authorized the state to establish a NY ABLE savings account.</p> <p>This chapter amendment significantly limits the fiscal impact on the state by eliminating the tax deduction provided for deposits into the account of a designated beneficiary.</p>
A.9620-A Gunther	S.6916-A Ortt	Chapter 375	This law requires the commissioner of the OMH to develop detailed definitions of degrees of injuries that may result from attacks by persons confined to state forensic psychiatric centers.
A.10053-A Gunther	S.7644 Ortt	Chapter 250	This law requires OPWDD to publish quarterly updates on the progress of the State's Olmstead implementation plan on its public website.
A.10206 Gunther	S.7882 Carlucci	Chapter 149	This law will authorize the Comptroller to contract with the existing third party administrator of the NYS College Choice Tuition Savings Program for the purpose of administering the NY ABLE Savings Account Program and provide the Comptroller with the option to permit the programs to be administered jointly or separately by the same 3rd party vendor.
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A.10558-A Santabarbara	S.8036-A Nozzolio	Chapter 469	This law establishes the Autism Spectrum Disorders Advisory Council.

**APPENDIX D
LAWS VETOED IN 2016**

ASSEMBLY BILL # SPONSOR	SENATE BILL # SPONSOR	FINAL ACTION	DESCRIPTION
A.10409 Gunther	S.7677-A Ortt	Veto 215	This bill would direct the Commissioners of OPWDD and DOH to identify the causes and determine the impact of high vacancy and turnover rates for non-profit providers delivering supports and services to individuals with intellectual and developmental disabilities, and identify the resources necessary to maintain a quality workforce in the direct support professional field.
A.10557 Gunther	S.7622 Ortt	Veto 291	This bill would provide that the notice of closure for significant reductions at state operated hospitals and state operated research institutes be at least twelve months and at most one year and one month prior to commencing such service reduction.