

Treatment preferred over juvenile detention

By Faith Burkins-Gimzek
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In the basement of a church near the Capitol, a congregation of juvenile justice advocates, adult and adolescent, geared up to go ask legislators to support the closings and consolidations of four juvenile placement facilities, which are proposed in the 2010-2011 Executive Budget.

Tryon Boys Residential Center is slated for closure, Lansing Girls Residential Centers would be downsized and Taberg Residential Center and the neighboring Annsville Residential Center would be consolidated.

The advocates are also asking for the restoration of \$16 million in funding they say has been cut from programs they hoped would replace the facilities' functions.

Senate Children and Families Committee Chairwoman Velmanette Montgomery, D-Brooklyn, spoke at a March 2 press conference in support of the closings and consolidations, and about new legislation (S.6711-a) she has proposed to promote the use of alternative programs to juvenile detention and institutional placement.

Montgomery's legislation is part of the Re-Direct New York initiative that encourages cities and counties to take a therapeutic, rather than correctional, approach to sentencing minors by establishing alternative to detention, or ATD, programs.

The bill, which currently has no same-as in the Assembly, would amend state Executive and County Law to provide reimbursement of 65 percent of the costs accrued from providing ATD programs to juvenile delinquents and Persons In Need of Supervision.

Currently, the state and county where a juvenile resides evenly split the costs of youth detention, care and supervision, and maintenance of the detention facility.

This bill would provide a fiscal incentive to localities to choose alternative sentencing over placement in custody. Currently, if they make that decision, localities must pay 100 percent of the costs.

The community-based ATD programs would be required to address children's mental

health disorders, learning or developmental disabilities and alcohol or substance abuse issues. According to the state Office of Children and Family Services, half of all children in custody have mental health disorders, half have learning disabilities, nearly one-third have developmental disabilities and 75 percent have alcohol or substance abuse issues.

The programs would focus on providing more family involvement in treatment, which advocates say cannot happen under the current system because detention facilities can be several hours away from the child's family.

According to the bill, the programs would have to be proven to reduce rates of recidivism. "Up until now we are putting all of our funds in detention. What the Executive Budget has proposed is a \$4 million increase to detention services in anticipation that we're going to have more detention. So what we intend to do is to change that program ... to make it possible for localities to do more alternatives to detention and receive a higher reimbursement from the state than even we provide for detention," Montgomery explained.

Juan Martinez, spokesman for Montgomery, said that despite OCFS residential facility census numbers showing a steep decrease in youth coming in to the facilities, the Executive Budget appropriates \$72 million for the state's payment of half of the costs of detention services. This is a \$4 million increase from the 2009-2010 fiscal year, when the allocation was \$68 million for reimbursement to local governments.

The goal, he said, is to allow this money for reimbursement to local governments for detention services to be used for ATD programs and to increase the reimbursement by 15 percent.

DeAvery Irons, acting director of the Juvenile Justice Project of the Correctional Association of New York, spoke at a press conference last week about why ATD programs and the Re-Direct New York initiative are necessary.

She referred to a federal Department of Justice report released in August on the findings of an investigation of several juvenile detention facilities, and to a report by Gov. David A. Paterson's Taskforce on Transforming Juvenile Justice released in December 2009.

The Justice Department report found that staff at four OCFS facilities in New York used excessive force and inappropriate restraints on detainees, resulting in bruises, concussions, knocked out teeth and bone fractures.

At Tryon Residential Center for boys in Perth, Fulton County, one of the two facilities slated for closure, an inappropriate restraint resulted in the death of 15-year-old Darryl Thompson in 2007. A Fulton County grand jury declined to indict the two staff involved.

The two-year investigation also found that the facilities failed to provide adequate mental health care and treatment, behavioral management, psychotropic medication monitoring and substance abuse treatment programs. Justice Department investigators also found the

facilities often did not take appropriate corrective action against staff who were found guilty of misconduct or abuse.

"We're here to tell legislators that this is unacceptable," said Irons.

She said the governor's task force report recommended a shift to ATD programs that she said are more cost effective and reduce recidivism rates. ATD programs would especially focus on minors convicted of low-level offenses. More than 50 percent of minors in state custody were convicted of misdemeanors, according to a 2007 report by the state Taskforce on Juvenile Justice Indicators.

A different taskforce, the Taskforce on Transforming Juvenile Justice, issued a report in 2009 that concluded if just 15 percent of all convicted minors in detention were instead placed in ATD programs such as Multi-Systemic Therapy, Multidimensional Treatment Foster Care or Functional Family Therapy, the net benefits to state taxpayers would be almost \$3 million. OCFS estimates it costs between \$140,000 and \$200,000 annually to detain a youth, whereas ATD programs cost \$5,000.

According to Irons, ATD programs are intensive, goal-oriented, evidence-based intervention and rehabilitation programs. Through individual and family therapy with trained social workers and therapists, they are used to address mental health disorders, learning or developmental disabilities, and alcohol or substance abuse issues.

There are several different types of therapeutic programs, including Functional Family Therapy, which takes place in a child's home and focuses on parenting skills. Multidimensional Treatment Foster Care is a similar program, but the children are removed from their home and placed with a host family specifically trained in addressing their issues. Multi-Systemic Therapy is individual therapy that focuses on building children's strengths rather than focusing on their weaknesses.

Irons said despite the governor's task force findings, and supportive DOJ and OCFS reports, Paterson's budget would cut \$16 million from the \$18.2 million allocation this year in state and federally sponsored ATD funding.

According to Jessica Basset of the Division of the Budget, total funding in the 2009-2010 fiscal year for community reinvestment and ATD residential placement programs was \$10.75 million in Temporary Assistance to Needy Families federal block grant funds. The state allocated \$2.46 million from its General Fund for the ATD/Residential Placement Program, and \$5 million in TANF funds for Community Reinvestment were included as well.

The 2010-2011 Executive Budget would set aside \$2.22 million from the General Fund for the ATD residential placement programs.

Irons emphasized that ATD programs should not receive funding cuts because they are proven to reduce rates of recidivism, which are soaring under the current system.

According to OCFS, under the current detention system, 89 percent of boys and 81 percent of girls are re-arrested by the time they are 28, and 90 percent are re-arrested before age 30. According to the 2009 taskforce report, Multidimensional Treatment Foster Care reduces rates of recidivism by 17.9 percent.

"In a time of fiscal crisis, we need to be telling legislators that this is how we want our money spent. We want to have our children invested in, not locked up," said Irons.

Sen. Hugh Farley, R-Schenectady, represents the district where Tryon Residential Center is located and is strongly against the closing of that facility. He said he would vote against the Re-Direct New York bill S.6711. He said he is a member of a subcommittee investigating the reasons why the facility is being closed and believes the facility has been underutilized to achieve the result of closing it.

"There's a feeling the [OCFS] did it on purpose to make sure empty beds are there; they could fill beds if they wanted to ... some of this is by design, that they want to close it," he said.

Tryon is also in a district represented by Assemblyman Marc Butler, R-Newport. He said closing the facility would have a devastating impact on the community and could result in a loss of 170 jobs. He said most frustrating is that while Tryon would be losing 170 jobs, the governor is proposing to spend \$18.2 million to pay for 169 additional staff to provide mental health services at other facilities.

Butler said he doesn't think closing the facility would save money and believes the decision to close the facility was reached too quickly and without the repercussions being thought out. "It seems to be a knee-jerk reaction to unfortunate publicity Tryon has been getting over past couple months," he said.

He said the Justice Department report detailing the lack of mental health services at the facilities was accurate, but the staff does not make the hiring decisions, so they cannot be blamed. "I think these are, by and large, hardworking men and women who have done their best to deal with it with no support from superiors at the top," he said.

He also said the closing is part of OCFS Commissioner Gladys Carrion's "personal agenda" to transfer children to privately operated placement facilities. "In my personal opinion, this is an agenda by the commissioner to close this facility, not part of a carefully mapped-out plan," he said.

Ed Borges, spokesman for the commissioner, said of the allegations, "Wouldn't it be wonderful if every commissioner's personal agenda was about improving the lives of children? The agenda is improving outcomes for children. And what that means is that the commissioner is not going to continue shipping black and Latino children to facilities upstate just to create jobs."