

VETO MESSAGE - No. 260

TO THE SENATE:

I am returning herewith, without my approval, the following bill:

Senate Bill Number 4615, entitled:

"AN ACT to amend the mental hygiene law and the public health law, in relation to peace officer powers of safety officers"

NOT APPROVED

This bill would amend the Mental Hygiene Law and the Public Health Law to require the Commissioners of the Office of Mental Health (OMH) and the Office of Mental Retardation and Developmental Disabilities (OMRDD), the in-patient facility directors at OMH and OMRDD, and the directors of hospitals within the Department of Health (DOH) to designate safety officers in their employ as special policemen. Special policemen so designated would possess all the powers of a peace officer, including the power to make warrantless arrests, use physical and deadly force when justified and execute warrantless searches. The bill would take effect immediately.

I disapproved similar legislation last year that would have eliminated the OMH Commissioner's discretion in designating security hospital treatment assistants as peace officers. (See: Veto No. 167 of 2003). In addition, I have twice disapproved legislation that would have mandated peace officer status for security officers at the Erie County Medical Center. (See: Veto No. 164 of 2003; Veto No. 5 of 2004).

In mandating that safety officers be granted peace officer status, this bill would eliminate the current statutory discretion of the Commissioners of OMH and OMRDD and their facility directors, as well as DOH hospital directors, to designate safety officers as peace officers in appropriate circumstances. I have not been advised of any instance in which the Commissioners or directors who possess this discretionary authority have denied or neglected to make such designation where necessary or appropriate. Therefore, because I have not been presented with any compelling evidence to justify the elimination of the discretionary power to grant peace officer status and the significant powers and privileges attendant to that status, I am constrained to disapprove this bill.

The bill is disapproved.

(signed) GEORGE E. PATAKI

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