

May 30, 2019

HEALTH & HUMAN SERVICES COMMITTEE
REPORT NO. 9

ALL MEMBERS PRESENT.

CHAIR BASKIN PRESENT AS EX-OFFICIO MEMBER.

1. RESOLVED, the following items are hereby received and filed:
 - a. LL INTRO. 12-1 (2017)
LORIGO: “A LL Requiring Disclosure of Origin and Composition of All Manufactured Parts in Surgically Implanted Dental Devices”
(Chair’s Ruling)
 - b. COMM. 16M-11 (2017)
DENTAL PROSTHETICS IDENTIFICATION: “Letter to Legislator Lorigo Regarding Support for LL Intro 12-1 (2017)”
(Chair’s Ruling)
 - c. INTRO. 5-7 (2019)
LORIGO, MILLS, DIXON & RATH: “RFP to Combat Rural Poverty”
(Chair’s Ruling)
 - d. COMM. 8D-2 (2019)
DEPARTMENT OF SOCIAL SERVICES: “CPS Statistical Report – March 2019”
(Chair’s Ruling)
2. INTRO 11-4 (2019)
BRUSO, BASKIN & HARDWICK
WHEREAS, 3.6 million American middle and high school students are now vaping regularly; and

WHEREAS, the US Food and Drug Administration (“FDA”) has called the use of vapor devices (also known as “e-cigarettes”) by teens as an “epidemic”, with many minor persons aged under 18 years old using e-cigarettes or vaping devices to inhale nicotine and other unhealthy, dangerous or unknown additives (known as “vaping”); and

WHEREAS, in November 2018, the FDA released a report from the National Youth Tobacco Survey which showed an alarming increase in the number of middle and high school aged children who had tried e-cigarettes; and

WHEREAS, the National Institute on Drug Abuse’s “Monitoring the Future” annual survey of American teenagers’ drug use just found that the rise in nicotine vaping is the largest spike for any substance recorded by the survey in 44 years and many young users do not realize their vaping pods contain nicotine; and

WHEREAS, in December 2018, the US Surgeon General issued a national advisory and warned Americans about e-cigarettes, saying: “I, Surgeon General of the United States Public Health Service, Vice Admiral Jerome Adams, am emphasizing the importance of protecting our children from a lifetime of nicotine addiction and associated health risks by immediately addressing the epidemic of youth e-cigarette use. The recent surge in e-cigarette use among youth, which has been fueled by new types of e-cigarettes that have recently entered the market, is a cause for great concern. We must take action now to protect the health of our nation’s young people”; and

WHEREAS, US Health and Human Services Secretary Alex Azar said: “We have never seen use of any substance by America’s young people rise this rapidly,” adding, “This is an unprecedented challenge”; and

WHEREAS, in February 2019, the US Centers for Disease Control and Prevention (“CDC”) reported that from 2017 to 2018, the number of high school students reporting e-cigarette use within the past month nearly doubled from 11.7% to 20.8%, which pushed high school students’ overall tobacco use rate from 19.6% to 27.1% in 2018; and

WHEREAS, the CDC found that the number of high school students who used e-cigarettes 20 or more days a month increased from 20% in 2017 to 27.7% in 2018; and

WHEREAS, in February 2019, the Centers for Disease Control and Prevention reported that many adults who use liquid vaping nicotine products continue to use regular cigarettes, and new CDC data show the number of dual users appears to be on the rise among young people. The agency found that among tobacco users in high school, around 40% use two or more products and the most frequent combination was cigarettes and e-cigarettes. The CDC said that the report adds to evidence that youth e-cigarette use raises the risk of graduating to combustible cigarettes; and

WHEREAS, US Food and Drug Administration Commissioner Scott Gottlieb said in February 2019: “The kids using e-cigarettes are children who rejected conventional cigarettes, but don’t see the same stigma associated with the use of e-cigarettes.” He added: “But now, having become exposed to nicotine through e-cigs, they will be more likely to smoke”; and

WHEREAS, in January 2019, this Honorable Body’s Health and Human Services Committee held a hearing on the teen vaping issue, featuring testimony from school principals and administrators who asked for legislative assistance and legislation to help them deal with the vaping epidemic; and

WHEREAS, responding to the national vaping epidemic, in Suffolk County, New York in January 2019, the Suffolk County Executive announced the rollout of “Vape Out”, a comprehensive vaping prevention program administered by the Suffolk County Department of Health Services to support school systems as they deal with record numbers of students using e-cigarettes on school grounds; and

WHEREAS, Suffolk County’s Vape Out pilot program utilizes a three-pronged approach to vaping prevention, consisting of a peer-to-peer education program, an alternative-to-suspension enforcement program, and a community-and-parent education forum with participation in four school districts; and

WHEREAS, Suffolk County’s Vape Out program’s first prong is a Teens-Teaching-Teens Peer Education Program, in which approximately 30 student volunteers spend a full day learning about vaping and how to talk to younger students about the dangers of vaping; and

WHEREAS, the second prong is the Alternative-to-Suspension Program which encourages school administrators to require students who have been reprimanded for vaping to attend a customized education intervention in lieu of school suspension and students will complete a self-assessment, discuss the harmful effects of vaping, demonstrate refusal skills, evaluate toxic media bombardment, and discuss the New York Adolescent Tobacco Use Prevention Act. This prong includes the Suffolk County Department of Health Service’s Office of Health Education starting a train-the-trainer program for school staff who will be able to use health department resources and design and teach their own classes; and

WHEREAS, the third prong to the Vape Out program is community education in which the Suffolk County Department of Health Service’s educators will conduct parent forums with parent-teacher organizations, youth bureaus and agencies and employ a variety of educational tools, including videos, props, power-point presentations, and role-play activities, to fully inform the public and professionals on the anatomy of this epidemic.

NOW, THEREFORE, BE IT

RESOLVED, the Erie County Legislature expresses its support for County-led initiatives, such as a Vape Out program, to be investigated and established in Erie County to help combat the vaping epidemic and problem among young people and teens in Erie County; and be it further

RESOLVED, that this Honorable Body requests that the Erie County Department of Health commence a dialogue with local school districts to investigate the possibility of commencing a Vape Out program in Erie County and working with partner school districts on education and related measures to help reduce the use of e-cigarettes and vaping devices by teens and young people in Erie County; and be it further

RESOLVED, that certified copies of this resolution be transmitted to the Erie County Executive, Commissioner of Health, Superintendent of the Buffalo Public Schools, the Superintendent of Erie 1 BOCES and the Erie County Association of School Boards.
(6-0)

3. INTRO. 11-5 (2019)

BRUSO & BASKIN

WHEREAS, 3.6 million American middle and high school students are now vaping regularly; and

WHEREAS, many vaping or e-cigarette devices sold in the United States contain 59-65 milligrams of nicotine, as contrasted with 20 milligrams in similar products sold in Europe under European Union or national regulations limiting the number of milligrams of nicotine; and

WHEREAS, for instance, one Juul pod contains 20 cigarettes worth of nicotine, and the amount of nicotine in one standard Juul cartridge is roughly equal to the amount of nicotine in a pack of cigarettes and many children and young people do not know that e-cigarettes or vaping devices contain addictive and dangerous nicotine; and

WHEREAS, in December 2018, the US Surgeon General issued a national advisory warning about e-cigarettes, saying: “I, Surgeon General of the United States Public Health Service, Vice Admiral Jerome Adams, am emphasizing the importance of protecting our children from a lifetime of nicotine addiction and associated health risks by immediately addressing the epidemic of youth e-cigarette use. The recent surge in e-cigarette use among youth, which has been fueled by new types of e-cigarettes that have recently entered the market, is a cause for great concern. We must take action now to protect the health of our nation’s young people”; and

WHEREAS, US Health and Human Services Secretary Alex Azar said: “We have never seen use of any substance by America's young people rise this rapidly,” adding, “This is an unprecedented challenge”; and

WHEREAS, in January 2019, this Honorable Body’s Health and Human Services Committee held a hearing on the teen vaping issue, featuring testimony from school principals and administrators who asked for legislative assistance and legislation to help them deal with the vaping epidemic; and

WHEREAS, educators and school resource officers who have testified before this Honorable Body have described how the flavorings put in vaping products by manufacturers such as mango, strawberry, watermelon, cherry, cotton candy, bubble gum, crème brûlée, cucumber and others attract and entice children and young people to use vaping products and fool people into thinking such devices are safe and harmless when in fact, they contain significant amounts of dangerous nicotine; and

WHEREAS, in March 2019, the US Food and Drug Administration (FDA) announced an initial policy to deliberately restrict how and where flavored e-cigarettes and vaping devices can be sold to address the “epidemic” of underage vaping, in which such sales would be limited to stores that bar minors or have adults-only sections; and

WHEREAS, then-FDA Commissioner Scott Gottlieb stated that the new policy would make it very difficult for convenience stores and gas stations to continue to sell the flavored vaping devices which attract young people; and

WHEREAS, in February 2019, the US Centers for Disease Control and Prevention (“CDC”) reported that from 2017 to 2018, the number of high school students reporting e-cigarette use within the past month nearly doubled from 11.7% to 20.8%, which pushed high school students’ overall tobacco use rate from 19.6% to 27.1% in 2018; and

WHEREAS, in February 2019, the CDC reported that the number of young persons who are dual-users using liquid vaping nicotine products as well as regular cigarettes appears to be on the rise, with around 40% of high schoolers who use tobacco use two or more products and the most frequent combination was cigarettes and e-cigarettes, with the federal agency reporting that youth e-cigarette use raises the risk of graduating to combustible cigarettes; and

WHEREAS, FDA Commissioner Gottlieb said in February 2019: “The kids using e-cigarettes are children who rejected conventional cigarettes, but don’t see the same stigma associated with the use of e-cigarettes.” He added: “But now, having become exposed to nicotine through e-cigs, they will be more likely to smoke”; and

WHEREAS, at a “Dangers of Teen Vaping” forum on March 6, 2019 hosted by Kids Escaping Drugs and Tobacco Free Western New York, educators, school resource officers and health advocates and anti-drug groups came together and discussed what they are seeing in schools and young people, with police officers reporting vaping by sixth graders, for instance, with flavorings helping to entice and attract children and young people to vape.

NOW, THEREFORE, BE IT

RESOLVED, that the Erie County Legislature expresses its support for, and requests federal or state legislative or regulatory action to regulate or restrict the flavorings allowed in vaping devices and e-cigarettes, in order to promote the public health and restrict the use of such devices containing nicotine by young people who are attracted to vaping due to the myriad of flavorings; and

RESOLVED, that certified copies of this resolution be transmitted to the President, the Commissioner of the FDA, the local delegation to the United States Congress, the New York State Governor, the local delegation of the New York State Legislature, the Erie County Executive, Commissioner of Health, Superintendent of the Buffalo Public Schools, the Superintendent of Erie 1 BOCES, and the Erie County Association of School Boards.
(4-2) Legislators Dixon & Lorigo voted in the negative.

4. COMM. 12E-32 (2019)

COUNTY EXECUTIVE

WHEREAS, under the Raise the Age legislation, most 16 and 17 year olds will no longer be prosecuted in the adult criminal justice system; and

WHEREAS, it is expected to significantly increase the caseload in Family Court; and

WHEREAS, to meet this increased demand, Erie County has planned to use mediation and restorative justice practices as a way to reduce penetration into the juvenile justice system; and

WHEREAS, this service must be provided at entities designed as Community Dispute Resolution Centers by the New York State Unified Court System; and

WHEREAS, Child and Family Services Center for Resolution and Justice is the only entity designated as a Community Dispute Resolution Center in Erie County by the New York State Unified Court System. As such, they are the only entity that can provide this service; and

WHEREAS, this program provides services for youth involved in the juvenile justice system to prevent deeper penetration into the system.

NOW, THEREFORE, BE IT

RESOLVED, that since Child and Family Services is the only agency with a recognized Community Dispute Resolution Centers, the County Administrative Code requirement in Section 19.08 for a Request for Proposals is hereby waived; and be it further

RESOLVED, that the Erie County Legislature hereby authorizes the County Executive to enter into contract with Child & Family Services for Restorative Justice services for an amount not to exceed \$60,000; and be it further

RESOLVED, that the Clerk of the Legislature shall forward certified copies of this Resolution to the County Executive, the Office of the Comptroller, the Division of Budget and Management, the Department of Law and to Dr. Gale R. Burstein, Commissioner in the Erie County Health Department, 9th Floor, Rath Building.

(6-0)

5. COMM. 12E-34 (2019)
COUNTY EXECUTIVE

WHEREAS, the Department of Social Services Legal Division is responsible for court proceedings regarding child abuse and neglect; and

WHEREAS, there are fourteen attorneys and one supervising attorney assigned to this division. The large span of control makes it difficult to effectively supervise attorneys; and

WHEREAS, the Department would like to delete a Counsel position and add a Senior Counsel position; and

WHEREAS, due to the limitations of the existing Paralegal job title, the Department is limited in the type of work it can assign paralegals; and

WHEREAS, the Department would like to delete a paralegal position and create a Senior Paralegal position; and

WHEREAS, the Department currently has a vacant Counsel position and a vacant paralegal position; and

WHEREAS, to allow these personnel adjustments to result in a positive budget variance, the Department will also delete a part-time Principal Clerk position.

NOW, THEREFORE, BE IT

RESOLVED, that the Erie County Legislature hereby authorizes the creation of one (1) Senior Counsel – Social Services (Job Grade 15, Step 0/1) at a cost of \$74,834 per B-100 #11245; and be it further

RESOLVED, that the Erie County Legislature hereby authorizes the creation of one (1) Senior Paralegal (Job Grade 7, Step 0/1) at a cost of \$38,902 per B-100 #11244; and be it further

RESOLVED, that the Erie County Legislature hereby authorizes the deletion of one (1) Counsel - Social Services (Job Grade 14, Step 0/1) at a cost of \$67,673; one (1) Paralegal (Job Grade 5, Step 0/1) at a cost of \$34,106; and one (1) part-time Principal Clerk (Job Grade 6) at a budgeted cost for 2019 of \$18,038 as per B-100 #11243; and be it further

RESOLVED, that authorization is hereby provided to the Division of Budget and Management, the Department of Personnel, and the Department of Social Services to make the necessary budgetary and personnel adjustments to effectuate this action; and be it further

RESOLVED, that the Clerk of the Legislature be directed to send certified copies of this resolution to the County Executive, Director of Budget and Management, Comptroller, Personnel Department, and the Department of Social Services.

(6-0)

JOHN BRUSO
CHAIR