

Bill to divide Mental Hygiene Dept. sent to Carey's desk

By PETER HARRIGAN

Advance Staff Writer

ALBANY — The Assembly, after nearly two hours of debate, yesterday approved by a margin of 130-15 a bill creating a new agency to take over the Department of Mental Hygiene's responsibility for the care of the mentally retarded.

The bill, approved by the Senate Feb. 20, now goes to Gov. Carey amid indications he may veto it because of the legislation's broad definition of mental retardation. Under the measure, persons with illnesses such as cerebral palsy or brain damage would automatically be categorized as retarded.

A spokesman for Carey said that while the governor has not yet decided what action to take on the bill, his top medical adviser is opposed to the legislation, as is Dr. Lawrence Kolb, Carey's nominee to head the Department of Mental Hygiene.

At a press conference last month, the governor said he believed that the definition of mental retardation contained in the bill — sponsored in the Senate by State Sen. William T. Conklin, R-Brooklyn, and in the Assembly by Speaker Stanley Steingut, D-Brooklyn — was too general.

Should Carey sign the bill into law, the new Executive Office for Mental Retardation would take over the Willowbrook Developmental Center and similar institutions around the state next April 1, in addition to other state-run programs for the mentally retarded.

In other major action, the Assembly passed 122-18 and sent to the Senate a bill allowing persons to register to vote by mail. Those in favor of the legislation said it will make it easier for potential voters to register, while opponents argued the bill could pave the way for large-scale fraud.

Under the mental retardation bill, the new agency would be required to assume virtually all of Mental Hygiene's activities related to the care and treatment of the retarded, both in institutions and community-oriented facilities.

The bill also provides for the creation of a 15-member advisory committee on mental retardation, with the requirement that at least five of the persons be parents of retarded children.

During Assembly debate on the bill, some controversy arose as to whether the new agency would require any additional appropriations of state funds.

Assemblyman Burton G. Hecht, D-Bronx, chairman of the Assembly Ways and Means Committee, said his staff believes the Office for Mental Retardation could be funded by transferring money earmarked for the care of the retarded out of Mental Hygiene's budget. The Mental Hygiene Department currently operates on a budget of nearly \$1 billion a year, much of which is directed toward programs for the retarded.

But opponents of the new agency, including a coalition of 20 statewide organizations representing the handicapped, said at least \$7 million more would be required to fund the office adequately.

Aside from the fiscal questions, opponents also argued that legislation creating the new agency is "cruel" because of its designation of various handicapped persons as mentally retarded.

"We might just as well create a department for the deaf, caused by rubella, and then put all the other deaf people in the state under it," said Assemblyman Robert C. Wertz, R-Nassau.

Wertz, arguing that the retarded need both psychiatric and medical attention, also pointed out that the bill would shift the emphasis of the new office away from such care and concentrate on the concept of prevention and rehabilitation.

Virtually all of the nearly two dozen legislators who rose to speak on the measure criticized the Mental Hygiene Department care for the retarded directly or indirectly, with Assemblyman Joseph M. Margiotta, R-Nassau, accusing the agency of having failed in its mental retardation programs.

"The urgency and necessity of a separate office for mental retardation grows out of the realization of failure," Margiotta said. "This is a beginning step we take today, but it is a giant step for children and adults in need of these services."

Assemblyman T.J. Murphy, R-Syracuse, said the bill contains "a fatal constitutional defect" since it makes no provision for changing existing laws requiring the mental hygiene commissioner to visit and inspect facilities for the mentally disturbed.

Such provisions, he said, would place the commissioner in conflict with the head of the new office.

"Maybe if the commissioner, at present or in the immediate past, had obeyed that constitutional mandate, the Willowbrooks of this state would not have developed," retorted Majority Leader Albert Blumenthal, D-Manhattan.

"Mental institutions in this state are monstrosities," he added.

Other opponents of the new

agency contended that the bill's broad definition of mental retardation would discourage persons with other illnesses included in the category from seeking treatment, and that Kolb has not yet had an opportunity to outline Mental Hygiene's programs for the retarded.

Assemblywoman Elizabeth A. Connelly, who voted for the bill, said she had some misgivings about the legislation but decided to support it because "it might be a step in the right direction."

"It's better than doing nothing," she said at the close of yesterday's session.

Debate was also heated on the voter registration bill, sponsored by Assemblyman Melvin Miller, D-Brooklyn, with most of the vocal opposition coming from Republicans.

Although the subject never came up on the Assembly floor, some insiders said mail registration would likely encourage more blacks and Puerto Ricans to register, and members of those ethnic groups traditionally vote Democratic.

Under the bill, which has yet to be acted on by the Senate, the state Board of Elections would designate persons around the state as election agents, who would in turn be authorized to have potential voters sign a registration book. That could be done in such public places as libraries, or even on a door-to-door basis, Miller said.

The local board of elections would then mail a registration card to the individual, after checking to make sure the registrant was a resident of the particular election district. The card would be sent by non-forwardable mail, so that if the address given was fictitious the card would be returned to the board.

Page 1 of 2 pages