S T A T E O F N E W Y O R K

6033

2009-2010 Regular Sessions

I N S E N A T E

June 21, 2009

Introduced by Sen. HASSELL-THOMPSON -- (at request of the Governor) -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the correction law, in relation to the housing of persons nineteen, twenty and twenty-one years of age within the correction department

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Subdivisions 4 and 13 of section 500-b of the correction law, subdivision 4 as added by chapter 907 of the laws of 1984 and subdivision 13 as amended by chapter 574 of the laws of 1985, are amended to read as follows:

4. (A) No person under nineteen years of age shall be placed or kept or allowed to be at any time with any prisoner or prisoners [nineteen] TWENTY-TWO years of age or older, in any room, dormitory, cell or tier of the buildings of such institution unless separately grouped to prevent access to persons under nineteen years of age by prisoners [nineteen] TWENTY-TWO years of age or older.

(B) PERSONS NINETEEN, TWENTY OR TWENTY-ONE YEARS OF AGE MAY, AT THE DISCRETION OF THE CHIEF ADMINISTRATIVE OFFICER, BE PLACED OR KEPT EITHER WITH PERSONS UNDER NINETEEN YEARS OF AGE OR WITH PERSONS TWENTY-TWO YEARS OF AGE OR OLDER, PROVIDED HOWEVER THAT IN MAKING THE DECISION ON WHERE TO HOUSE SUCH NINETEEN, TWENTY OR TWENTY-ONE YEAR OLD PERSONS, THE CHIEF ADMINISTRATIVE OFFICER SHALL CONSIDER ALL OF THE FACTORS SET FORTH IN PARAGRAPH (A) OF SUBDIVISION SEVEN OF THIS SECTION.

13. Where in the opinion of the chief administrative officer an emergency overcrowding condition exists in a local correctional facility caused in part by the [prohibition against the commingling of persons under nineteen years of age with persons nineteen years of age or older or the commingling of persons nineteen years of age or older with persons under nineteen years of age] RESTRICTIONS UPON COMMINGLING OF

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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CATEGORIES OF PERSONS SET FORTH IN SUBDIVISION FOUR OF THIS SECTION, the chief administrative officer may apply to the commission for permission to commingle the aforementioned categories of inmates for a period not to exceed thirty days as provided herein. The commission shall acknowledge to the chief administrative officer the receipt of such application upon its receipt. The chief administrative officer shall be permitted to commingle such inmates upon acknowledgment of receipt of the application by the commission. The commission shall assess the application within seven days of receipt. The commission shall deny any such application and shall prohibit the continued commingling of such inmates where it has found that the local correctional facility does not meet the criteria set forth in this subdivision and further is in substantial noncompliance with minimum staffing requirements as provided in commission rules and regulations. In addition, the commission shall determine whether the commingling of such inmates presents a danger to the health, safety or welfare of any such inmate. If no such danger exists the chief administrative officer may continue the commingling until the expiration of the aforementioned thirty day period or until such time as he determines that the overcrowding which necessitated the commingling no longer exists, whichever occurs first. In the event the commission determines that such danger exists, it shall immediately notify the chief administrative officer, and the commingling of such inmates shall cease. Such notification shall include specific measures which should be undertaken by the chief administrative officer, to correct such dangers. The chief administrative officer may correct such dangers and reapply to the commission for permission to commingle; however, no commingling may take place until such time as the commission certifies that the facility is now in compliance with the measures set forth in the notification under this subdivision. When such certification has been received by the chief administrative officer, the commingling may continue for thirty days, less any time during which the chief administrative officer commingled such inmates following his application to the commission, or until such time as he determines that the overcrowding which necessitated the commingling no longer exists, whichever occurs first. The chief administrative officer may apply for permission to commingle such inmates for up to two additional thirty day periods, in conformity with the provisions and the requirements of this subdivision, in a given calendar year. For the period ending December thirtieth, nineteen hundred eighty-four, a locality may not apply for more than one thirty day commingling period.

S 2. This act shall take effect immediately; provided that the amendments to section 500-b of the correction law made by section one of this act shall not affect the repeal of such section and shall be deemed to be repealed therewith.