

STATE OF NEW YORK

7757

IN SENATE

February 20, 2018

Introduced by Sen. RIVERA -- read twice and ordered printed, and when printed to be committed to the Committee on Crime Victims, Crime and Correction

AN ACT to amend the correction law, in relation to establishing the pilot project for the placement of inmates close to home; and providing for the repeal of such provisions upon expiration thereof

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Short title. This act shall be known and may be cited as
2 the "pilot project for the placement of inmates close to home".

3 § 2. Legislative intent. The legislature hereby finds and declares
4 that research shows inmates who maintain family ties during incarceration
5 have lower rates of recidivism than inmates who do not. Further,
6 most inmates are parents, and more than 80,000 children in the state of
7 New York have a parent incarcerated in the state prison system.

8 The legislature further finds that the department of corrections and
9 community supervision should consider proximity to minor children among
10 the key criteria of security and health and program needs when determining
11 prison assignments and transfers of parents, and should support
12 increased access of children to their incarcerated parents through the
13 use of technology and programs currently available within the department.
14

15 The legislature therefore declares that there is a need to develop
16 classification criteria that would place inmates in proximity to their
17 family members and home communities, and in particular for those inmates
18 who are parents of minor children in the appropriate correctional facility
19 located closest to those children provided such placement is otherwise
20 appropriate and suitable, and would facilitate increased contact
21 between such inmate and his or her child or children.

22 § 3. The correction law is amended by adding a new section 72-c to
23 read as follows:

24 § 72-c. Pilot project for the placement of inmates close to home. 1.
25 The commissioner shall establish a pilot program at a designated correc-
26 tional facility for the purpose of housing inmates who are parents of

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

LBD14475-02-8

1 minor children in the correctional facility which is located in closest
2 proximity to the primary place of residence of any such inmate's minor
3 child or children under eighteen years of age, provided that such place-
4 ment is otherwise suitable and appropriate pursuant to the regulations
5 of the department and would facilitate increased contact between such
6 inmate and his or her child or children. For purposes of this pilot
7 program, inmates who are parents of minor children on a voluntary basis,
8 would request placement in the pilot program. In selecting such inmates
9 the department shall consult with the office of children and family
10 services and the local district of social services located in the county
11 where such inmate's child resides to determine if any reasons exist,
12 such as no visitation order, that may prevent the inmate from partic-
13 ipating in the pilot program.

14 2. The commissioner, in consultation with appropriate community organ-
15 izations, shall submit within one year of the effective date of this
16 section and annually thereafter a report to the governor, the temporary
17 president of the senate and the speaker of the assembly on the effec-
18 tiveness of this pilot project. Such reports shall include an analysis
19 of the impact on the inmate, including factors such as institutional
20 adjustment, behavior infractions, and program participation, among
21 related relevant factors. The reports shall also include analysis of
22 factors such as frequency of visits, barriers to visitation, logistical
23 challenges and cost-savings to the department. The report shall further
24 include any recommendations for additional legislative enactments that
25 may be needed or required, to improve, enhance and subsequently expand
26 the program to other correctional facilities as determined to be appro-
27 priate by the commissioner. The report following the third year of the
28 pilot program shall include a plan for expansion and eventual incorpo-
29 ration of proximity into placement decisions for all inmate parents of
30 minor children.

31 3. No person shall have the right to demand or require participation
32 in the pilot project authorized by this section. The commissioner may
33 revoke at any time participation in such project for any serious disci-
34 plinary infraction committed by the inmate or for any failure to contin-
35 ue to participate successfully in any assigned work and treatment
36 program after placement in such pilot program.

37 4. An eligibility preference shall be granted for child welfare and
38 foster care cases. Admission shall be granted on a rolling basis and
39 priority shall be given to inmates who were primary caregivers, although
40 all inmate parents of minor children shall be considered. The department
41 shall verify that the minor children of inmates participating in such
42 pilot program will be able to come to the facility for periodic visita-
43 tion. Any action by the commissioner pursuant to this section shall be
44 deemed a judicial function and shall not be reviewable if done in
45 accordance with law.

46 5. The commissioner is empowered to grant preference to more involved
47 inmate parents, as determined by the amount of contact that the children
48 have with their parents, as well as to parents whose children are in
49 foster care as they are at risk of losing their parental rights, should
50 the commissioner determine to do so. Inmates shall not be eligible for
51 this program for a variety of factors, as listed in, but not limited to,
52 those enumerated in this section. Inmates who are incarcerated for
53 violating parole or conditional release shall be ineligible for this
54 program. Inmates who have committed a crime against a child shall be
55 ineligible for this program. Inmates for whom a closer location would
56 not lead to more visitors shall not be eligible for this program. Mental

1 health issues shall not be an issue of ineligibility with regard to this
2 program, unless there is a compelling reason to do so.

3 § 4. This act shall take effect six months after it shall have become
4 a law and shall expire 3 years after it shall take effect when upon such
5 date the provisions of this act shall be deemed repealed. Effective
6 immediately, the addition, amendment and/or repeal of any rule or regu-
7 lation necessary for the implementation of this act on its effective
8 date are authorized to be made on or before such date.