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

3495

2009-2010 Regular Sessions

I N A S S E M B L Y

January 27, 2009

Introduced by M. of A. AUBRY -- Multi-Sponsored by -- M. of A. COOK -- read once and referred to the Committee on Correction

AN ACT to amend the penal law, in relation to the conditional release of terminally ill inmates serving definite sentences

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

Section 1. The opening paragraph of subdivision 2 of section 70.40 of the penal law, as amended by chapter 467 of the laws of 1979, is amended to read as follows:

A person who is serving one or more than one definite sentence of imprisonment with a term or aggregate term in excess of ninety days may, if he OR SHE so requests, be conditionally released from the institution in which he OR SHE is confined at any time after service of sixty days of that term, exclusive of credits allowed under subdivisions four and six of section 70.30. In computing service of sixty days, the credit allowed for jail time under subdivision three of section 70.30 shall be calculated as time served. Conditional release from such institution shall be in the discretion of the parole board, and shall be upon such conditions as may be imposed by that board, in accordance with the provisions of the executive law. THE LOCAL CONDITIONAL RELEASE COMMISSION MAY CONSIDER THE REQUEST OF, AND MAY GRANT THE CONDITIONAL RELEASE OF, A PERSON WHO HAS BEEN CERTIFIED BY A LOCAL CORRECTIONAL FACILITY PHYSICIAN TO BE SUFFERING FROM A TERMINAL ILLNESS, WITHOUT REGARD TO THE AMOUNT OF TIME SERVED. "TERMINAL ILLNESS" SHALL MEAN AN ILLNESS THAT IS EXPECTED TO CAUSE THE DEMISE OF AN INMATE BEFORE HE OR SHE SHALL HAVE COMPLETED THE SENTENCE OF INCARCERATION.

S 2. This act shall take effect immediately.

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

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