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

3498

2009-2010 Regular Sessions

I N A S S E M B L Y

January 27, 2009

Introduced by M. of A. AUBRY, LENTOL, BRADLEY, DESTITO, PAULIN -- read once and referred to the Committee on Correction

AN ACT to amend the correction law, the executive law and the penal law, in relation to release and supervision of persons serving a definite sentence

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

Section 1. The correction law is amended by adding a new article 12 to read as follows:

ARTICLE 12
LOCAL CONDITIONAL RELEASE COMMISSION

SECTION 270. DEFINITIONS.
271. LOCAL CONDITIONAL RELEASE COMMISSION; ORGANIZATION.
272. LOCAL CONDITIONAL RELEASE COMMISSION; FUNCTION, POWERS AND DUTIES.
273. CONDITIONAL RELEASE; PROCEDURES FOR APPLICATION AND DETERMINATIONS.
274. CONDITIONAL RELEASE; PROCEDURES FOR VIOLATION, DELINQUENCY, WARRANTS AND REVOCATION.
275. TRANSFER OF CUSTODY AND SUPERVISION OF CONDITIONAL RELEASEE.
276. REGULATIONS AND REPORT.

S 270. DEFINITIONS. AS USED IN THIS ARTICLE, THE FOLLOWING TERMS HAVE THE FOLLOWING MEANINGS:

1. "COMMISSION" MEANS THE LOCAL CONDITIONAL RELEASE COMMISSION.

2. "COUNTY" MEANS EACH COUNTY IN THE STATE, EXCEPT A COUNTY WITHIN THE CITY OF NEW YORK.

3. "COUNTY EXECUTIVE" MEANS THE COUNTY COMMISSIONER, COUNTY MANAGER, COUNTY DIRECTOR OR COUNTY PRESIDENT.

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

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4. "DIVISION" MEANS THE DIVISION OF PROBATION AND CORRECTIONAL ALTERNATIVES.

S 271. LOCAL CONDITIONAL RELEASE COMMISSION; ORGANIZATION. 1. EVERY COUNTY, AND THE CITY OF NEW YORK, MAY ADOPT A LOCAL LAW ESTABLISHING A LOCAL CONDITIONAL RELEASE COMMISSION. SUCH COMMISSION SHALL BE APPOINTED BY THE COUNTY EXECUTIVE, UPON THE ADVICE AND CONSENT OF THE COUNTY LEGISLATURE, OR IN THE CASE OF THE CITY OF NEW YORK, SUCH COMMISSION SHALL BE APPOINTED BY THE MAYOR, UPON THE ADVICE AND CONSENT OF THE CITY COUNCIL. EACH SUCH COMMISSION SHALL CONSIST OF AT LEAST FIVE MEMBERS. EACH MEMBER OF THE COMMISSION SHALL HAVE GRADUATED FROM AN ACCREDITED FOUR YEAR COLLEGE OR UNIVERSITY AND SHALL HAVE HAD AT LEAST FIVE YEARS OF EXPERIENCE IN THE FIELD OF CRIMINOLOGY, ADMINISTRATION OF CRIMINAL JUSTICE, LAW ENFORCEMENT, PROBATION, PAROLE, LAW, SOCIAL WORK, SOCIAL SCIENCE, PSYCHOLOGY, PSYCHIATRY OR CORRECTIONS.

2. THE TERM OF OFFICE OF EACH MEMBER OF SUCH COMMISSION SHALL BE FOR FOUR YEARS; PROVIDED, HOWEVER, THAT ANY MEMBER CHOSEN TO FILL A VACANCY OCCURRING OTHERWISE THAN BY EXPIRATION OF TERM SHALL BE APPOINTED FOR THE REMAINDER OF THE UNEXPIRED TERM OF THE MEMBER WHOM THE PERSON IS TO SUCCEED. VACANCIES CAUSED BY EXPIRATION OF TERM OR OTHERWISE SHALL BE FILLED IN THE SAME MANNER AS ORIGINAL APPOINTMENTS.

3. NO MEMBER OF THE COMMISSION SHALL SERVE AS A REPRESENTATIVE OF ANY POLITICAL PARTY ON AN EXECUTIVE COMMITTEE OR OTHER GOVERNING BODY THEREOF, AS AN EXECUTIVE OFFICER OR EMPLOYEE OF ANY POLITICAL COMMITTEE, ORGANIZATION OR ASSOCIATION, NOR BE A JUDGE OR JUSTICE, A SHERIFF OR DISTRICT ATTORNEY.

4. ANY MEMBER MAY BE REMOVED BY THE COUNTY EXECUTIVE, OR THE MAYOR IN THE CASE OF THE CITY OF NEW YORK, FOR CAUSE, AFTER NOTICE AND AN OPPORTUNITY TO BE HEARD.

5. THE DIRECTOR OF THE LOCAL PROBATION DEPARTMENT, OR SUCH DIRECTOR'S DESIGNEE, SHALL SERVE AS AN EX-OFFICIO, NON-VOTING MEMBER OF THE COMMISSION.

6. THE LOCAL PROBATION DEPARTMENT SHALL ASSIGN STAFF SUPPORT TO THE COMMISSION.

S 272. LOCAL CONDITIONAL RELEASE COMMISSION; FUNCTION, POWERS AND DUTIES. THE COMMISSION SHALL:

1. HAVE THE POWER AND DUTY OF DETERMINING WHICH PERSONS SENTENCED WITHIN THE COUNTY, OR THE CITY OF NEW YORK, AND SERVING A DEFINITE SENTENCE OF IMPRISONMENT AND ELIGIBLE FOR CONDITIONAL RELEASE PURSUANT TO SUBDIVISION TWO OF SECTION 70.40 OF THE PENAL LAW MAY BE RELEASED ON CONDITIONAL RELEASE AND WHEN AND UNDER WHAT CONDITIONS IN ACCORDANCE WITH SECTION TWO HUNDRED SEVENTY-THREE OF THIS ARTICLE;

2. REQUIRE MEMBERS TO BE PHYSICALLY PRESENT AT ALL MEETINGS FOR A MAJORITY QUORUM;

3. HAVE THE POWER TO DETERMINE, AS EACH INMATE APPLIES FOR CONDITIONAL RELEASE, THE NEED FOR SUPPLEMENTAL INVESTIGATION OF THE BACKGROUND OF SUCH INMATE AND CAUSE SUCH INVESTIGATION AS MAY BE NECESSARY TO BE MADE AS SOON AS PRACTICABLE. THE COMMISSION MAY REQUIRE THAT THE PROBATION DEPARTMENT LOCATED IN THE JURISDICTION OF THE COMMISSION CONDUCT SUCH SUPPLEMENTAL INVESTIGATION. THE RESULTS OF SUCH INVESTIGATION TOGETHER WITH ALL OTHER INFORMATION COMPILED BY THE LOCAL CORRECTIONAL FACILITY AND THE COMPLETE CRIMINAL RECORD AND FAMILY COURT RECORD OF SUCH INMATE SHALL BE READILY AVAILABLE WHEN THE CONDITIONAL RELEASE OF SUCH INMATE IS BEING CONSIDERED. SUCH INFORMATION SHALL INCLUDE A COMPLETE STATEMENT OF THE CRIME FOR WHICH THE INMATE HAS BEEN SENTENCED, THE CIRCUMSTANCES OF SUCH CRIME, ALL PRESENTENCE MEMORANDA, THE NATURE OF THE SENTENCE, THE COURT IN WHICH SUCH INMATE WAS SENTENCED, THE NAME OF THE JUDGE AND

DISTRICT ATTORNEY AND COPIES OF SUCH PROBATION REPORTS AS MAY HAVE BEEN MADE AS WELL AS REPORTS AS TO THE INMATE'S SOCIAL, PHYSICAL, MENTAL AND PSYCHIATRIC CONDITION AND HISTORY;

4. HAVE THE LEGAL CUSTODY OF PERSONS CONDITIONALLY RELEASED AND PLACED UNDER THE SUPERVISION OF THE LOCAL PROBATION DEPARTMENT FOR A PERIOD OF ONE YEAR, OR UNTIL RETURNED TO THE CUSTODY OF THE LOCAL CORRECTIONAL FACILITY LOCATED IN THE JURISDICTION OF THE COMMISSION, AS THE CASE MAY BE;

5. HAVE THE POWER TO REVOKE THE CONDITIONAL RELEASE OF ANY PERSON IN THE LEGAL CUSTODY OF THE COMMISSION AND TO ISSUE DECLARATIONS OF DELINQUENCY AND AUTHORIZE THE ISSUANCE OF A WARRANT FOR THE RETAKING OF SUCH PERSON, AS PROVIDED FOR IN SECTION TWO HUNDRED SEVENTY-FOUR OF THIS ARTICLE;

6. FOR THE PURPOSE OF ANY INVESTIGATION NECESSARY IN THE PERFORMANCE OF ITS DUTIES, HAVE THE POWER TO ISSUE SUBPOENAS, TO COMPEL THE ATTENDANCE OF WITNESSES AND THE PRODUCTION OF BOOKS, PAPERS, AND OTHER DOCUMENTS PERTINENT TO THE SUBJECT OF ITS INQUIRY. THE MINUTES OF ALL COMMISSION MEETINGS MUST BE RECORDED AND SUCH RECORDS SHALL BE RETAINED PERMANENTLY BY THE COMMISSION;

7. HAVE THE POWER TO AUTHORIZE ANY MEMBERS THEREOF TO ADMINISTER OATHS AND TAKE THE TESTIMONY OF PERSONS UNDER OATH;

8. NOTIFY, IN WRITING, THE INITIAL SENTENCING COURT, THE DISTRICT ATTORNEY AND DEFENSE COUNSEL WITHIN FIVE BUSINESS DAYS OF RECEIPT OF AN APPLICATION FOR A LOCAL CONDITIONAL RELEASE FILED UNDER THIS ARTICLE AND PROVIDE A FIFTEEN DAY PERIOD FOR COMMENT ON SUCH APPLICATION. COMMENTS SUBMITTED UNDER THIS SUBDIVISION SHALL BE PROVIDED TO THE COMMISSION AND ALL PARTIES;

9. NOTIFY IN WRITING THE APPROPRIATE LOCAL PROBATION DEPARTMENT PRIOR TO RELEASE OF A CONDITIONALLY RELEASED PERSON OF SUCH DEPARTMENT'S RESPONSIBILITIES TO SUPERVISE SUCH PERSON;

SUCH NOTICE SHALL INCLUDE THE NAME AND RESIDENCE OF THE PERSON, THE DATE OF RELEASE, THE CONDITIONS OF RELEASE, AND ALL NECESSARY RECORDS MAINTAINED ON SUCH PERSON TO AID THE LOCAL PROBATION DEPARTMENT IN THE PERFORMANCE OF ITS RESPONSIBILITIES PURSUANT TO SUBDIVISION SIX OF SECTION TWO HUNDRED FIFTY-SIX OF THE EXECUTIVE LAW;

10. HAVE THE POWER TO TRANSFER THE LEGAL CUSTODY OF PERSONS CONDITIONALLY RELEASED IN ACCORDANCE WITH THE PROVISIONS OF SECTION TWO HUNDRED SEVENTY-FIVE OF THIS ARTICLE;

11. PRESENT AN ANNUAL REPORT TO THE COUNTY LEGISLATURE, OR IN THE CASE OF THE CITY OF NEW YORK, TO THE CITY COUNCIL, OF ITS FINDINGS AND ACTIONS ON SUBMITTED APPLICATIONS.

S 273. CONDITIONAL RELEASE; PROCEDURES FOR APPLICATION AND DETERMINATIONS. 1. ANY INMATE WHO IS ELIGIBLE FOR CONDITIONAL RELEASE BY A COMMISSION PURSUANT TO SUBDIVISION TWO OF SECTION 70.40 OF THE PENAL LAW AND WHO HAS SERVED A MINIMUM PERIOD OF SIXTY DAYS IN A LOCAL CORRECTIONAL FACILITY MAY APPLY FOR CONDITIONAL RELEASE. ELIGIBILITY CRITERIA SHALL BE LIMITED TO INMATES:

(A) WHO HAVE NOT BEEN PREVIOUSLY CONVICTED AND WHO DO NOT STAND CONVICTED OF ANY CRIME WHICH WOULD MAKE SUCH INMATE INELIGIBLE FOR THE RECEIPT OF MERIT TIME PURSUANT TO SECTION EIGHT HUNDRED THREE OF THIS CHAPTER, ANY CRIME PURSUANT TO ARTICLE TWO HUNDRED THIRTY-FIVE OF THE PENAL LAW WHEN THE VICTIM OF SUCH OFFENSE WAS UNDER THE AGE OF EIGHTEEN AT THE TIME OF THE OFFENSE, OR ANY CRIME WHICH THE COMMISSION DETERMINES CONSTITUTED A CRIME OF DOMESTIC VIOLENCE;

(B) HAVING JAIL RECORDS WHICH MAKE THEM ELIGIBLE FOR A REDUCTION OF SENTENCE UNDER SECTION EIGHT HUNDRED FOUR OF THIS CHAPTER;

(C) HAVING VERIFIED COMMUNITY TIES IN ONE OF THE FOLLOWING AREAS: EMPLOYMENT, PERMANENT RESIDENCE AND FAMILY.

APPLICATION SHALL BE MADE IN WRITING, ON FORMS PRESCRIBED BY THE DIVISION, TO THE COMMISSION IN THE COUNTY WHERE THE SENTENCE WAS IMPOSED.

2. THE COMMISSION SHALL REVIEW AND MAKE A DETERMINATION ON EACH APPLICATION WITHIN THIRTY DAYS OF RECEIPT OF SUCH APPLICATION. NO DETERMINATION GRANTING OR DENYING SUCH APPLICATION SHALL BE VALID UNLESS MADE BY A MAJORITY VOTE OF AT LEAST THREE COMMISSION MEMBERS PRESENT. NO RELEASE SHALL BE GRANTED UNLESS THERE IS A REASONABLE PROBABILITY THAT, IF SUCH INMATE IS RELEASED, HE OR SHE SHALL LIVE AND REMAIN AT LIBERTY WITHOUT VIOLATING THE LAW, AND THAT HIS OR HER RELEASE IS NOT INCOMPATIBLE WITH THE WELFARE OF SOCIETY AND SHALL NOT SO DEPRECATE THE SERIOUSNESS OF HIS OR HER CRIME AS TO UNDERMINE RESPECT FOR LAW.

3. IF CONDITIONAL RELEASE IS GRANTED, THE COMMISSION SHALL SET THE CONDITIONS FOR RELEASE OF THE PERSON IN ACCORDANCE WITH RULES AND REGULATIONS PROMULGATED BY THE DIVISION. SUCH PERSON SHALL BE GIVEN A COPY OF THE CONDITIONS OF RELEASE. SUCH CONDITIONS SHALL, WHERE APPROPRIATE, INCLUDE A REQUIREMENT THAT THE PERSON COMPLY WITH ANY RESTITUTION ORDER PREVIOUSLY IMPOSED BY A COURT OF COMPETENT JURISDICTION THAT APPLIES TO THE PERSON.

4. NO PERSON WHO HAS BEEN GRANTED CONDITIONAL RELEASE SHALL BE RELEASED UNTIL SUCH PERSON HAS SERVED A MINIMUM PERIOD OF INCARCERATION OF NINETY DAYS, IN ACCORDANCE WITH SUBDIVISION TWO OF SECTION 70.40 OF THE PENAL LAW, AND UNLESS SUCH PERSON HAS AGREED IN WRITING TO THE CONDITIONS SET BY THE COMMISSION. SUCH AGREEMENT SHALL STATE IN PLAIN, EASILY UNDERSTANDABLE LANGUAGE THE CONSEQUENCES OF A VIOLATION OF ONE OR MORE OF THE CONDITIONS OF RELEASE.

5. PERSONS WHO HAVE BEEN GRANTED CONDITIONAL RELEASE BY THE COMMISSION ESTABLISHED PURSUANT TO THIS ARTICLE SHALL, WHILE ON CONDITIONAL RELEASE, BE IN THE LEGAL CUSTODY OF THE COMMISSION FOR A PERIOD OF ONE YEAR, OR UNTIL RETURNED TO THE CUSTODY OF THE LOCAL CORRECTIONAL FACILITY LOCATED IN THE JURISDICTION OF THE COMMISSION, AS THE CASE MAY BE. THE PROBATION DEPARTMENT LOCATED IN THE JURISDICTION OF THE COMMISSION HAS THE DUTY OF SUPERVISING THE PERSON DURING THE PERIOD OF SUCH CONDITIONAL RELEASE. THE COMMISSION SHALL IMPOSE A MINIMUM OF FOUR SUPERVISION CONTACTS PER MONTH WHILE THE PERSON IS ON CONDITIONAL RELEASE.

6. IF CONDITIONAL RELEASE IS NOT GRANTED, THE COMMISSION SHALL INFORM THE PERSON IN WRITING OF THE FACTORS AND REASONS FOR SUCH DENIAL OF CONDITIONAL RELEASE WITHIN FIFTEEN DAYS OF THE DECISION. SUCH REASONS SHALL BE GIVEN IN DETAIL AND NOT IN CONCLUSORY TERMS. INMATES DENIED CONDITIONAL RELEASE ARE ELIGIBLE TO REAPPLY SIXTY DAYS AFTER THE DATE OF SUBMISSION OF THE DENIED APPLICATION.

S 274. CONDITIONAL RELEASE; PROCEDURES FOR VIOLATION, DELINQUENCY, WARRANTS AND REVOCATION. 1. IF AT ANY TIME DURING THE PERIOD OF CONDITIONAL RELEASE, THE COMMISSION, OR ANY MEMBER THEREOF, HAS REASONABLE CAUSE TO BELIEVE THAT A PERSON WHO HAS BEEN CONDITIONALLY RELEASED HAS LAPSED INTO CRIMINAL WAYS OR COMPANY, OR HAS VIOLATED ONE OR MORE CONDITIONS OF CONDITIONAL RELEASE, THE COMMISSION OR SUCH MEMBER MAY DECLARE SUCH PERSON DELINQUENT AND ISSUE A WRITTEN DECLARATION OF DELINQUENCY. UPON SUCH DECLARATION, SUCH COMMISSION OR SUCH MEMBER MAY ISSUE A WARRANT FOR THE RETAKING AND TEMPORARY DETENTION OF SUCH PERSON.

2. A WARRANT ISSUED PURSUANT TO THIS SECTION SHALL CONSTITUTE SUFFICIENT AUTHORITY TO THE CHIEF ADMINISTRATIVE OFFICER OF ANY LOCAL CORRECTIONAL FACILITY TO WHOM IT IS DELIVERED TO HOLD IN TEMPORARY DETENTION THE PERSON NAMED THEREIN.

3. A WARRANT ISSUED PURSUANT TO THIS SECTION MAY BE EXECUTED BY ANY PROBATION OFFICER OR ANY OFFICER AUTHORIZED TO SERVE CRIMINAL PROCESS OR ANY PEACE OFFICER, WHO IS ACTING PURSUANT TO HIS OR HER SPECIAL DUTIES, OR ANY POLICE OFFICER. ANY SUCH OFFICER TO WHOM SUCH WARRANT SHALL BE DELIVERED IS AUTHORIZED AND REQUIRED TO EXECUTE SUCH WARRANT BY TAKING SUCH PERSON AND HAVING HIM OR HER DETAINED AS PROVIDED FOR IN THIS SECTION.

4. THE ALLEGED VIOLATOR SHALL, WITHIN THREE DAYS OF THE EXECUTION OF THE WARRANT, BE GIVEN WRITTEN NOTICE OF THE TIME, PLACE AND PURPOSE OF THE HEARING. THE NOTICE SHALL STATE WHAT CONDITIONS OF CONDITIONAL RELEASE ARE ALLEGED TO HAVE BEEN VIOLATED AND IN WHAT MANNER AND SHALL INFORM THE ALLEGED VIOLATOR OF HIS OR HER RIGHT TO COUNSEL AS PROVIDED FOR IN SUBDIVISION SEVEN OF THIS SECTION.

5. THE ALLEGED CONDITIONAL RELEASE VIOLATOR SHALL APPEAR BEFORE THE COMMISSION WITHIN FIFTEEN DAYS OF THE EXECUTION OF THE WARRANT. AT THE TIME OF SUCH APPEARANCE THE COMMISSION SHALL ASK THE ALLEGED VIOLATOR WHETHER HE OR SHE WISHES TO MAKE ANY STATEMENT WITH RESPECT TO THE VIOLATION. IF THE ALLEGED VIOLATOR MAKES A STATEMENT, THE COMMISSION MAY ACCEPT IT AND BASE A DECISION THEREON. IF THE COMMISSION DOES NOT ACCEPT IT, OR IF THE ALLEGED VIOLATOR DOES NOT MAKE A STATEMENT, THE COMMISSION SHALL PROCEED WITH THE HEARING.

6. THE COMMISSION MAY RECEIVE ANY RELEVANT EVIDENCE. THE ALLEGED VIOLATOR MAY CROSS EXAMINE WITNESSES AND MAY PRESENT EVIDENCE ON HIS OR HER OWN BEHALF.

7. THE ALLEGED VIOLATOR IS ENTITLED TO COUNSEL AT ALL STAGES OF ANY PROCEEDING UNDER THIS SECTION AND THE COMMISSION SHALL ADVISE HIM OR HER OF SUCH RIGHT UPON DELIVERING TO THE ALLEGED VIOLATOR WRITTEN NOTICE, REQUIRED PURSUANT TO SUBDIVISION FOUR OF THIS SECTION.

8. AT THE CONCLUSION OF THE HEARING, THE COMMISSION SHALL ISSUE A FINDING. IF THE COMMISSION IS NOT SATISFIED THAT THERE IS A PREPONDERANCE OF EVIDENCE IN SUPPORT OF THE VIOLATION, THE COMMISSION SHALL DISMISS THE VIOLATION, CANCEL DELINQUENCY AND RESTORE THE PERSON TO SUPERVISION. IF THE COMMISSION IS SATISFIED THAT THERE IS A PREPONDERANCE OF EVIDENCE THAT THE ALLEGED VIOLATOR VIOLATED ONE OR MORE CONDITIONS OF CONDITIONAL RELEASE IN AN IMPORTANT RESPECT, THE COMMISSION SHALL SO FIND.

9. UPON A FINDING IN SUPPORT OF THE VIOLATION, THE COMMISSION MAY REVOKE THE CONDITIONAL RELEASE, OR CONTINUE OR MODIFY THE CONDITIONS OF SUCH CONDITIONAL RELEASE. WHERE THE COMMISSION REVOKES A PERSON'S CONDITIONAL RELEASE, SUCH PERSON SHALL BE COMMITTED TO THE CUSTODY OF THE CHIEF ADMINISTRATIVE OFFICER OF THE LOCAL CORRECTIONAL FACILITY TO SERVE THE TIME REMAINING ON HIS OR HER SENTENCE, IN ACCORDANCE WITH SUBDIVISION THREE OF SECTION 70.40 OF THE PENAL LAW. WHERE THE COMMISSION MODIFIES THE CONDITIONS OF THE CONDITIONAL RELEASE, THE COMMISSION SHALL INFORM THE PERSON, IN WRITING, OF SUCH MODIFIED CONDITIONS.

10. ANY ACTIONS BY THE COMMISSION PURSUANT TO THIS ARTICLE SHALL BE DEEMED A JUDICIAL FUNCTION AND SHALL NOT BE REVIEWABLE IF DONE IN ACCORDANCE WITH LAW.

S 275. TRANSFER OF CUSTODY AND SUPERVISION OF CONDITIONAL RELEASEE. 1. IF A PERSON WHO HAS BEEN GRANTED CONDITIONAL RELEASE PURSUANT TO THIS ARTICLE RESIDES OR DESIRES TO RESIDE IN A PLACE OTHER THAN THE ONE LOCATED WITHIN THE JURISDICTION OF THE COMMISSION WHICH HAS LEGAL CUSTODY OF SUCH PERSON, SUCH COMMISSION, OR ANY MEMBER THEREOF, MAY DESIGNATE ANY OTHER COMMISSION ESTABLISHED PURSUANT TO THIS ARTICLE, OR THE PAROLE BOARD, TO ASSUME CUSTODY OF SUCH PERSON AND MAY SO TRANSFER CUSTODY.

2. WHERE CUSTODY OF A PERSON WHO HAS BEEN GRANTED CONDITIONAL RELEASE PURSUANT TO THIS ARTICLE IS TRANSFERRED PURSUANT TO SUBDIVISION ONE OF THIS SECTION, UPON DESIGNATION AND PRIOR TO TRANSFER, THE COMMISSION MAKING THE DESIGNATION SHALL NOTIFY THE COMMISSION WHICH HAS BEEN DESIGNATED TO RECEIVE CUSTODY OF SUCH TRANSFER OR THE PAROLE BOARD. THE COMMISSION MAKING THE DESIGNATION SHALL IMMEDIATELY FORWARD ITS ENTIRE CASE RECORD REGARDING SUCH PERSON TO THE RECEIVING COMMISSION OR THE PAROLE BOARD. THE COMMISSION TO WHICH LEGAL CUSTODY HAS BEEN TRANSFERRED, OR THE PAROLE BOARD, SHALL ASSUME THE SAME POWERS AND DUTIES EXERCISED BY THE DESIGNATING COMMISSION AND SHALL HAVE THE SOLE CUSTODY OF SUCH PERSON.

3. THE COMMISSION MAKING THE DESIGNATION SHALL, UPON DESIGNATION AND PRIOR TO TRANSFER, NOTIFY THE LOCAL PROBATION DEPARTMENT LOCATED IN THE JURISDICTION OF THE RECEIVING COMMISSION OF THE DUTIES OF SUPERVISION AND CONDITIONS OF RELEASE OF SUCH PERSON. UPON SUCH NOTIFICATION, SUCH PROBATION DEPARTMENT SHALL ASSUME RESPONSIBILITIES OF SUPERVISION. THE COMMISSION MAKING THE DESIGNATION SHALL IMMEDIATELY FORWARD ITS ENTIRE CASE RECORD REGARDING SUCH PERSON TO SUCH PROBATION DEPARTMENT.

S 276. REGULATIONS AND REPORT. THE DIVISION SHALL PROMULGATE REGULATIONS IN CONFORMANCE WITH THE PROVISIONS OF THIS ARTICLE WHICH ENSURE THAT LOCAL CONDITIONAL RELEASE COMMISSIONS OPERATE IN ACCORDANCE WITH THE REQUIREMENTS PROVIDED IN THIS ARTICLE. THE DIVISION SHALL REPORT ANNUALLY TO THE SPEAKER OF THE ASSEMBLY AND TO THE TEMPORARY PRESIDENT OF THE SENATE CONCERNING THE OPERATIONS OF LOCAL CONDITIONAL RELEASE COMMISSIONS.

S 2. The executive law is amended by adding a new section 257-b to read as follows:

S 257-B. CONDITIONAL RELEASEES; DUTIES OF SUPERVISION. 1. IT SHALL BE THE DUTY OF EVERY PROBATION OFFICER TO FURNISH EACH PERSON WHO HAS BEEN ORDERED TO HIS OR HER SUPERVISION PURSUANT TO SUBDIVISION TWO OF SECTION 70.40 OF THE PENAL LAW, WITH A STATEMENT OF THE CONDITIONS OF RELEASE AND TO INSTRUCT SUCH PERSON WITH REGARD THERETO; TO KEEP INFORMED CONCERNING SUCH PERSON'S CONDUCT, HABITS, ASSOCIATES, EMPLOYMENTS, RECREATION AND WHEREABOUTS; TO CONTACT SUCH PERSON AT LEAST ONCE A MONTH PURSUANT TO RULES AND REGULATIONS PROMULGATED BY THE DIVISION; TO AID AND ENCOURAGE SUCH PERSON BY FRIENDLY ADVICE AND ADMONITION AND, BY SUCH OTHER MEASURES AS MAY SEEM MOST SUITABLE, TO BRING ABOUT IMPROVEMENT IN SUCH PERSON'S CONDUCT, CONDITION AND GENERAL ATTITUDE TOWARD SOCIETY.

2. PROBATION OFFICERS SHALL REPORT TO THE HEAD OF THE LOCAL PROBATION DEPARTMENT WHO SHALL IN TURN REPORT IN WRITING TO THE LOCAL CONDITIONAL RELEASE COMMISSION HAVING CUSTODY OF SUCH PERSON AT LEAST MONTHLY CONCERNING THE CONDUCT AND CONDITION OF PERSONS CONDITIONALLY RELEASED PURSUANT TO SUBDIVISION TWO OF SECTION 70.40 OF THE PENAL LAW; KEEP RECORDS OF THEIR WORK AS PROBATION OFFICERS; KEEP ACCURATE AND COMPLETE ACCOUNTS OF ALL MONEY COLLECTED FROM SUCH PERSONS; GIVE RECEIPTS THEREFOR AND MAKE PROMPT RETURNS THEREOF AT LEAST MONTHLY; AID IN SECURING EMPLOYMENT; PERFORM SUCH OTHER DUTIES IN CONNECTION WITH THE SUPERVISION OF SUCH PERSONS AS MAY BE REQUIRED BY RULES AND REGULATIONS PROMULGATED BY THE DIVISION; AND MAKE ANY OTHER REPORTS TO THE DIVISION AS IT MAY REQUIRE.

3. IF AT ANY TIME DURING THE PERIOD OF SUPERVISION, A PROBATION OFFICER HAS REASONABLE CAUSE TO BELIEVE A PERSON CONDITIONALLY RELEASED PURSUANT TO SUBDIVISION TWO OF SECTION 70.40 OF THE PENAL LAW HAS LAPSED INTO CRIMINAL WAYS OR COMPANY, OR HAS VIOLATED ONE OR MORE CONDITIONS OF HIS OR HER RELEASE, SUCH PROBATION OFFICER SHALL REPORT SUCH FACT TO A

MEMBER OF THE LOCAL CONDITIONAL RELEASE COMMISSION HAVING CUSTODY OF SUCH PERSON.

S 3. Subdivision 4 of section 259-a of the executive law, as separately amended by chapter 635 of the laws of 1985 and chapter 1 of the laws of 1998, is amended to read as follows:

4. [The] IN ACCORDANCE WITH THE PROVISIONS OF THIS CHAPTER, THE division shall supervise [all] inmates released on parole or conditional release, or to post-release supervision, except that the division may consent to the supervision of a released inmate by the United States parole commission pursuant to the witness security act of nineteen hundred eighty-four.

S 4. 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:

2. Definite sentence. A person who is serving one or more than one definite sentence of imprisonment with a MINIMUM term or MINIMUM aggregate term [in excess] of [ninety] ONE HUNDRED TWENTY days, AND IS ELIGIBLE FOR RELEASE ACCORDING TO THE CRITERIA SET FORTH IN PARAGRAPHS (A), (B) AND (C) OF SUBDIVISION ONE OF SECTION TWO HUNDRED SEVENTY-THREE OF THE CORRECTION LAW, 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] NINETY days of that term, exclusive of credits allowed under subdivisions four and six of section 70.30. In computing service of [sixty] NINETY 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, OR A LOCAL CONDITIONAL RELEASE COMMISSION ESTABLISHED PURSUANT TO ARTICLE TWELVE OF THE CORRECTION LAW, and shall be upon such conditions as may be imposed by [that] THE PAROLE board, in accordance with the provisions of the executive law, OR A LOCAL CONDITIONAL RELEASE COMMISSION IN ACCORDANCE WITH THE PROVISIONS OF THE CORRECTION LAW.

Conditional release shall interrupt service of the sentence or sentences and the remaining portion of the term or aggregate term shall be held in abeyance. Every person so released shall be under the supervision of the parole board [for a period of one year] OR A LOCAL PROBATION DEPARTMENT AND IN THE CUSTODY OF THE LOCAL CONDITIONAL RELEASE COMMISSION IN ACCORDANCE WITH ARTICLE TWELVE OF THE CORRECTION LAW, FOR A PERIOD OF ONE YEAR. THE LOCAL PROBATION DEPARTMENT SHALL CAUSE COMPLETE RECORDS TO BE KEPT OF EVERY PERSON RELEASED TO ITS SUPERVISION PURSUANT TO THIS SUBDIVISION. THE DIVISION OF PAROLE MAY SUPPLY TO A LOCAL PROBATION DEPARTMENT AND THE LOCAL CONDITIONAL RELEASE COMMISSION CUSTODY INFORMATION AND RECORDS MAINTAINED ON PERSONS UNDER THE SUPERVISION OF SUCH LOCAL PROBATION DEPARTMENT TO AID IN THE PERFORMANCE OF ITS SUPERVISION RESPONSIBILITIES. Compliance with the conditions of release during the period of supervision shall satisfy the portion of the term or aggregate term that has been held in abeyance.

S 5. Paragraph (b) of subdivision 3 of section 70.40 of the penal law, as separately amended by chapter 1 of the laws of 1998, is amended to read as follows:

(b) When a person is alleged to have violated the terms of his conditional release or post-release supervision and has been declared delinquent by the PAROLE board or THE LOCAL CONDITIONAL RELEASE commission having supervision over [him] SUCH PERSON, the declaration of delinquency shall interrupt the period of supervision or post-release supervision as of the date of the delinquency. For a conditional release, such interruption shall continue until the return of the person to the institution from which he was released or, if he was released from an insti-

tution under the jurisdiction of the state department of [correction] CORRECTIONAL SERVICES, to an institution under the jurisdiction of that department. Upon such return, the person shall resume service of his sentence. For a person released to post-release supervision, the provisions of section 70.45 shall apply.

S 6. This act shall take effect immediately.