

1250

2009-2010 Regular Sessions

I N S E N A T E

January 28, 2009

Introduced by Sen. SALAND -- 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 agreements for custody of definite sentence inmates

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

- 1 Section 1. Section 91 of the correction law, as added by chapter 478
2 of the laws of 1970, is amended to read as follows:
3 S 91. Agreements for custody of definite sentence inmates. 1. The
4 [state] commissioner [of correction] may, SUBJECT TO THE PROVISIONS OF
5 SUBDIVISION FOUR OF THIS SECTION, enter into an agreement with any coun-
6 ty or with the city of New York to provide for custody by the [state]
7 department [of correction] of persons who receive definite sentences of
8 imprisonment with terms in excess of ninety days who otherwise would
9 serve such sentences in the jail, workhouse, penitentiary or other local
10 correctional [institution] FACILITY maintained by such locality.
11 2. Any such agreement, except one that is made with the city of New
12 York, may be made with the sheriff, warden, superintendent, local
13 commissioner of correction or other person in charge of such [county
14 institution] LOCAL CORRECTIONAL FACILITY and shall be subject to the
15 approval of the chief executive officer of the county. An agreement made
16 with the city of New York may be made with the commissioner of
17 correction of that city and shall be subject to the approval of the
18 mayor.
19 3. An agreement made under this section [shall not require the locali-
20 ty to pay the cost of treatment, maintenance and custody furnished by
21 the state department of correction and] shall contain at least the
22 following provisions:
23 (a) A PROVISION THAT REQUIRES THE LOCALITY TO PAY THE COST OF TREAT-
24 MENT, MAINTENANCE AND CUSTODY OF AN INMATE FURNISHED BY THE DEPARTMENT;

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

LBD07293-01-9

1 (B) A provision specifying the minimum length of the term of imprison-
2 ment of persons who may be received by the [state] department [of
3 correction] under the agreement, which may be any term in excess of
4 ninety days agreed to by the parties and which need not be the same in
5 each agreement;

6 [(b)] (C) A provision that no charge will be made to the state or to
7 the [state] department [of correction] or to any of its institutions
8 during the pendency of such agreement for delivery of inmates to the
9 [state] department [of correction] by officers of the locality, and that
10 the provisions of section six hundred two of this chapter or of any
11 similar law shall not apply for delivery of inmates during such time;

12 [(c)] (D) A provision that no charge shall be made to or shall be
13 payable by the state during the pendency of such agreement for the
14 expense of maintaining parole violators pursuant to section two hundred
15 sixteen of this chapter, for the expense of maintaining coram nobis
16 prisoners pursuant to section six hundred one-b of this chapter, OR for
17 the expense of maintaining felony prisoners pursuant to section six
18 hundred one-c of this chapter[, or for the expense of maintaining alter-
19 native local reformatory inmates pursuant to section eight hundred thir-
20 ty-five in institutions maintained by the locality];

21 [(d)] (E) A provision, approved by the state comptroller, for
22 reimbursement of the [state] department [of correction] by the locality
23 for expenses incurred under subdivision two or three of section one
24 hundred twenty-five of this chapter relating to clothing, money and
25 transportation furnished upon release or discharge of inmates delivered
26 to the [state] department [of correction] pursuant to the agreement;

27 [(e)] (F) A PROVISION FOR REIMBURSEMENT BY THE LOCALITY TO THE DEPART-
28 MENT TO PAY THE COST OF TREATMENT, MAINTENANCE AND CUSTODY OF AN INMATE
29 FURNISHED BY SUCH LOCALITY PURSUANT TO SUBDIVISION FOUR OF SECTION NINE-
30 TY-FIVE OF THIS ARTICLE;

31 (G) Designation of the correctional facility or facilities to which
32 persons under sentences covered by the agreement are to be delivered;

33 [(f)] (H) Any other provision the [state] commissioner [of correction]
34 may deem necessary or appropriate; and

35 [(g)] (I) A provision giving either party the right to cancel the
36 agreement by giving the other party notice in writing, with cancellation
37 to become effective on such date as may be specified in such notice.

38 4. (A) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (I) OF SUBDIVISION
39 THREE OF THIS SECTION, THE COMMISSIONER SHALL ENTER INTO AN AGREEMENT
40 WITH A COUNTY OR THE CITY OF NEW YORK PURSUANT TO THE PROVISIONS OF THIS
41 SECTION WHEN IT IS DETERMINED BY THE STATE COMMISSION ON CORRECTIONS TO
42 BE NECESSARY TO ALLEVIATE OVERCROWDING AT THE LOCAL CORRECTIONAL FACILI-
43 TY OR FACILITIES. UPON SUCH DETERMINATION, A COUNTY OR THE CITY OF NEW
44 YORK SHALL NOT BE REQUIRED BY THE STATE COMMISSION ON CORRECTIONS TO
45 CONSTRUCT NEW CORRECTIONAL FACILITIES.

46 (B) NOTHING IN THIS SECTION SHALL PRECLUDE THE STATE COMMISSION ON
47 CORRECTIONS FROM ISSUING WAIVERS PURSUANT TO THIS ARTICLE, IF IN THE
48 DISCRETION OF THE STATE COMMISSION ON CORRECTIONS THE ISSUANCE OF THE
49 WAIVER IS MORE APPROPRIATE THAN THE AGREEMENT PROVIDED FOR IN THIS
50 SECTION.

51 (C) NOTHING IN THIS SECTION SHALL PRECLUDE A COUNTY FROM ENTERING AN
52 AGREEMENT WITH A CONTIGUOUS COUNTY OR PROHIBIT THE CONTINUATION OF ANY
53 EXISTING AGREEMENT BETWEEN COUNTIES FOR THE ALLEVIATION OF OVERCROWDING
54 AT A LOCAL CORRECTIONAL FACILITY OR FACILITIES.

1 (D) NOTHING IN THIS SECTION SHALL PRECLUDE THE CITY OF NEW YORK FROM
2 ENTERING INTO AGREEMENTS WITH ANY COUNTY WITHIN THE STATE TO ALLEVIATE
3 OVERCROWDING AT ITS LOCAL FACILITIES.

4 5. A copy of such agreement shall be filed with the secretary of state
5 and with the clerk of each court having jurisdiction to impose sentences
6 covered by the agreement in the county or city to which it applies.

7 S 2. Subdivision 4 of section 92 of the correction law, as added by
8 chapter 478 of the laws of 1970, is amended to read as follows:

9 4. In the event any such agreement is cancelled, inmates delivered to
10 the [state] department [of correction] prior to the date of cancellation
11 shall continue to serve their sentences in the custody of [such] THE
12 department and the provisions of such agreement shall continue to apply
13 with respect to such inmates. A copy of the notice of cancellation shall
14 be filed with the secretary of state and with the clerks of courts in
15 the manner provided in subdivision [four] FIVE of section ninety-one of
16 this article, and no inmates shall be delivered to the custody of the
17 [state] department [of correction] under such agreement after the date
18 on which such cancellation becomes effective.

19 S 3. This act shall take effect on the thirtieth day after it shall
20 have become a law, and shall apply to agreements entered into on or
21 before such effective date.