

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 ASSEM-
BLY, DO ENACT AS FOLLOWS:

1 Section 1. Subdivisions 4 and 13 of section 500-b of the correction
2 law, subdivision 4 as added by chapter 907 of the laws of 1984 and
3 subdivision 13 as amended by chapter 574 of the laws of 1985, are
4 amended to read as follows:
5 4. (A) No person under nineteen years of age shall be placed or kept
6 or allowed to be at any time with any prisoner or prisoners [nineteen]
7 TWENTY-TWO years of age or older, in any room, dormitory, cell or tier
8 of the buildings of such institution unless separately grouped to
9 prevent access to persons under nineteen years of age by prisoners
10 [nineteen] TWENTY-TWO years of age or older.
11 (B) PERSONS NINETEEN, TWENTY OR TWENTY-ONE YEARS OF AGE MAY, AT THE
12 DISCRETION OF THE CHIEF ADMINISTRATIVE OFFICER, BE PLACED OR KEPT EITHER
13 WITH PERSONS UNDER NINETEEN YEARS OF AGE OR WITH PERSONS TWENTY-TWO
14 YEARS OF AGE OR OLDER, PROVIDED HOWEVER THAT IN MAKING THE DECISION ON
15 WHERE TO HOUSE SUCH NINETEEN, TWENTY OR TWENTY-ONE YEAR OLD PERSONS, THE
16 CHIEF ADMINISTRATIVE OFFICER SHALL CONSIDER ALL OF THE FACTORS SET FORTH
17 IN PARAGRAPH (A) OF SUBDIVISION SEVEN OF THIS SECTION.
18 13. Where in the opinion of the chief administrative officer an emer-
19 gency overcrowding condition exists in a local correctional facility
20 caused in part by the [prohibition against the commingling of persons
21 under nineteen years of age with persons nineteen years of age or older
22 or the commingling of persons nineteen years of age or older with
23 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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1 CATEGORIES OF PERSONS SET FORTH IN SUBDIVISION FOUR OF THIS SECTION, the
2 chief administrative officer may apply to the commission for permission
3 to commingle the aforementioned categories of inmates for a period not
4 to exceed thirty days as provided herein. The commission shall acknowl-
5 edge to the chief administrative officer the receipt of such application
6 upon its receipt. The chief administrative officer shall be permitted
7 to commingle such inmates upon acknowledgment of receipt of the applica-
8 tion by the commission. The commission shall assess the application
9 within seven days of receipt. The commission shall deny any such appli-
10 cation and shall prohibit the continued commingling of such inmates
11 where it has found that the local correctional facility does not meet
12 the criteria set forth in this subdivision and further is in substantial
13 noncompliance with minimum staffing requirements as provided in commis-
14 sion rules and regulations. In addition, the commission shall determine
15 whether the commingling of such inmates presents a danger to the health,
16 safety or welfare of any such inmate. If no such danger exists the chief
17 administrative officer may continue the commingling until the expiration
18 of the aforementioned thirty day period or until such time as he deter-
19 mines that the overcrowding which necessitated the commingling no longer
20 exists, whichever occurs first. In the event the commission determines
21 that such danger exists, it shall immediately notify the chief adminis-
22 trative officer, and the commingling of such inmates shall cease. Such
23 notification shall include specific measures which should be undertaken
24 by the chief administrative officer, to correct such dangers. The chief
25 administrative officer may correct such dangers and reapply to the
26 commission for permission to commingle; however, no commingling may take
27 place until such time as the commission certifies that the facility is
28 now in compliance with the measures set forth in the notification under
29 this subdivision. When such certification has been received by the chief
30 administrative officer, the commingling may continue for thirty days,
31 less any time during which the chief administrative officer commingled
32 such inmates following his application to the commission, or until such
33 time as he determines that the overcrowding which necessitated the
34 commingling no longer exists, whichever occurs first. The chief adminis-
35 trative officer may apply for permission to commingle such inmates for
36 up to two additional thirty day periods, in conformity with the
37 provisions and the requirements of this subdivision, in a given calendar
38 year. For the period ending December thirtieth, nineteen hundred eight-
39 y-four, a locality may not apply for more than one thirty day commin-
40 gling period.

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