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

2493

2009-2010 Regular Sessions

I N A S S E M B L Y

January 16, 2009

Introduced by M. of A. PRETLOW -- read once and referred to the Committee on Correction

AN ACT to amend the executive law, in relation to requiring persons in violation of parole to be placed in the custody of the department of correctional services; and to repeal subparagraph (ii) of paragraph (a) of subdivision 3 of section 259-i of such law relating to the placement of such persons in local correctional facilities

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

Section 1. Subparagraph (i) of paragraph (a) of subdivision 3 of section 259-i of the executive law, as amended by section 11 of part E of chapter 62 of the laws of 2003, is amended to read as follows:

[(i)] If the parole officer having charge of a presumptively released, paroled or conditionally released person or a person released to post-release supervision or a person received under the uniform act for out-of-state parolee supervision shall have reasonable cause to believe that such person has lapsed into criminal ways or company, or has violated one or more conditions of his presumptive release, parole, conditional release or post-release supervision, such parole officer shall report such fact to a member of the board of parole, or to any officer of the division designated by the board, and thereupon a warrant may be issued for the retaking of such person and for his temporary detention in accordance with the rules of the board. The retaking and detention of any such person may be further regulated by rules and regulations of the division not inconsistent with this article. A warrant issued pursuant to this section shall constitute sufficient authority [to the superintendent or other person in charge of any jail, penitentiary, lockup or detention pen to whom it is delivered to hold in temporary detention] FOR THE IMMEDIATE PLACEMENT OF the person named therein ONLY INTO THE CUSTODY OF THE DEPARTMENT OF CORRECTIONAL SERVICES TO HOLD IN TEMPORARY DETENTION; [except that] a warrant issued with respect to a person who

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

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has been released on medical parole pursuant to section two hundred fifty-nine-r of this article and whose parole is being revoked pursuant to paragraph (h) of subdivision four of such section shall ALSO constitute authority for the immediate placement of the parolee only into the custody of the department of correctional services to hold in temporary detention. A warrant issued pursuant to this section shall also constitute sufficient authority to the person in charge of a drug treatment campus, as defined in subdivision twenty of section two of the correction law, to hold the person named therein, in accordance with the procedural requirements of this section, for a period of at least ninety days to complete an intensive drug treatment program mandated by the board of parole as an alternative to presumptive release or parole or conditional release revocation, or the revocation of post-release supervision, and shall also constitute sufficient authority for return of the person named therein to local custody to hold in temporary detention for further revocation proceedings in the event said person does not successfully complete the intensive drug treatment program. The board's rules shall provide for cancellation of delinquency and restoration to supervision upon the successful completion of the program.

S 2. Subparagraph (i) of paragraph (a) of subdivision 3 of section 259-i of the executive law, as separately amended by chapter 904 of the laws of 1977 and chapter 1 of the laws of 1998, is amended to read as follows:

[(i)] If the parole officer having charge of a paroled or conditionally released person or a person released to post-release supervision or a person received under the uniform act for out-of-state parolee supervision shall have reasonable cause to believe that such person has lapsed into criminal ways or company, or has violated one or more conditions of his parole, conditional release or post-release supervision, such parole officer shall report such fact to a member of the board of parole, or to any officer of the division designated by the board, and thereupon a warrant may be issued for the retaking of such person and for his temporary detention in accordance with the rules of the board. The retaking and detention of any such person may be further regulated by rules and regulations of the division not inconsistent with this article. A warrant issued pursuant to this section shall constitute sufficient authority [to the superintendent or other person in charge of any jail, penitentiary, lockup or detention pen to whom it is delivered to hold in temporary detention] FOR THE IMMEDIATE PLACEMENT OF the person named therein ONLY INTO THE CUSTODY OF THE DEPARTMENT OF CORRECTIONAL SERVICES TO HOLD IN TEMPORARY DETENTION. A warrant issued pursuant to this section shall also constitute sufficient authority to the person in charge of a drug treatment campus, as defined in subdivision twenty of section two of the correction law, to hold the person named therein, in accordance with the procedural requirements of this section, for a period of at least ninety days to complete an intensive drug treatment program mandated by the board of parole as an alternative to parole or conditional release revocation, or the revocation of post-release supervision, and shall also constitute sufficient authority for return of the person named therein to local custody to hold in temporary detention for further revocation proceedings in the event said person does not successfully complete the intensive drug treatment program. The board's rules shall provide for cancellation of delinquency and restoration to supervision upon the successful completion of the program.

S 3. Subparagraph (ii) of paragraph (a) of subdivision 3 of section 259-i of the executive law is REPEALED.

S 4. This act shall take effect on the one hundred eightieth day after it shall have become a law, provided that:

(a) the amendments to subparagraph (i) of paragraph (a) of subdivision 3 of section 259-i of the executive law, made by section one of this act, shall be subject to the expiration and reversion of such subparagraph pursuant to section 427 of chapter 55 of the laws of 1992, as amended, when upon such date the provisions of section two of this act shall take effect; and

(b) effective immediately, the addition, amendment and/or repeal of any rules and regulations necessary for the implementation of this act on its effective date are authorized and directed to be made and completed on or before such effective date.