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

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I N A S S E M B L Y

January 27, 2009

Introduced by M. of A. PERRY, KAVANAGH -- Multi-Sponsored by -- M. of A. BENJAMIN, BOYLAND, BRENNAN, COOK, DIAZ, EDDINGTON, ESPAILLAT, GLICK, GOTTFRIED, GREENE, HOOPER, JACOBS, MENG, MILLMAN, PAULIN, PEOPLES, PHEFFER, POWELL, ROBINSON, ROSENTHAL, WEISENBERG -- read once and referred to the Committee on Correction -- reported from committee, advanced to a third reading, amended and ordered reprinted, retaining its place on the order of third reading

AN ACT to amend the correction law, in relation to pregnant female prisoners

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

Section 1. Subdivision 1 of section 611 of the correction law, as amended by chapter 758 of the laws of 1968, is amended to read as follows:

1. If a woman confined in any institution [under the control of the state department of correction, or in any penitentiary or jail] AS DEFINED IN PARAGRAPH C OF SUBDIVISION FOUR OF SECTION TWO OF THE CORRECTION LAW OR LOCAL CORRECTIONAL FACILITY AS DEFINED IN PARAGRAPH (A) OF SUBDIVISION SIXTEEN OF SECTION TWO OF THE CORRECTION LAW, be pregnant and about to give birth to a child, the [officer] SUPERINTENDENT AS DEFINED IN SUBDIVISION TWELVE OF SECTION TWO OF THE CORRECTION LAW OR SHERIFF AS DEFINED IN PARAGRAPH C OF SUBDIVISION SIXTEEN OF SECTION TWO OF THE CORRECTION LAW in charge of such institution OR FACILITY, a reasonable time before the anticipated birth of such child, shall cause such woman to be removed from such institution OR FACILITY and provided with comfortable accommodations, maintenance and medical care elsewhere, under such supervision and safeguards to prevent her escape from custody as [he] THE SUPERINTENDENT OR SHERIFF OR HIS OR HER DESIGNEE may determine[, and]. NO RESTRAINTS OF ANY KIND SHALL BE USED DURING TRANSPORT TO OR FROM THE HOSPITAL, INSTITUTION OR CLINIC WHERE SUCH WOMAN RECEIVES CARE; PROVIDED, HOWEVER, IN EXTRAORDINARY CIRCUM-

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

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STANCES, WHERE RESTRAINTS ARE NECESSARY TO PREVENT SUCH WOMAN FROM INJURING HERSELF OR MEDICAL OR CORRECTIONAL PERSONNEL, SUCH WOMAN MAY BE CUFFED BY ONE WRIST. IN CASES WHERE RESTRAINTS ARE USED, THE SUPERINTENDENT OR SHERIFF SHALL MAKE AND MAINTAIN WRITTEN FINDINGS AS TO THE REASONS FOR SUCH USE. NO RESTRAINTS OF ANY KIND SHALL BE USED WHEN SUCH WOMAN IS IN LABOR, ADMITTED TO A HOSPITAL, INSTITUTION OR CLINIC FOR DELIVERY, OR RECOVERING AFTER GIVING BIRTH. ANY SUCH PERSONNEL AS MAY BE NECESSARY TO SUPERVISE THE WOMAN DURING TRANSPORT TO AND FROM AND DURING HER STAY AT THE HOSPITAL, INSTITUTION OR CLINIC SHALL BE PROVIDED TO ENSURE ADEQUATE CARE, CUSTODY AND CONTROL OF THE WOMAN. THE SUPERINTENDENT OR SHERIFF OR HIS OR HER DESIGNEE SHALL CAUSE SUCH WOMAN TO BE subject to [her] return to such institution OR LOCAL CORRECTIONAL FACILITY as soon after the birth of her child as the state of her health will permit AS DETERMINED BY THE MEDICAL PROFESSIONAL RESPONSIBLE FOR THE CARE OF SUCH WOMAN. If such woman is confined in a [penitentiary or jail] LOCAL CORRECTIONAL FACILITY, the expense of such accommodation, maintenance and medical care shall be paid by such woman or her relatives or from any available funds of the [penitentiary or jail] LOCAL CORRECTIONAL FACILITY and if not available from such sources, shall be a charge upon the county, city or town in which is located the court from which such inmate was committed to such [penitentiary or jail] LOCAL CORRECTIONAL FACILITY. If such woman is confined in any institution under the control of the [state] department [of correction], the expense of such accommodation, maintenance and medical care shall be paid by such woman or her relatives and if not available from such sources, such maintenance and medical care shall be paid by the state. In cases where payment of such accommodations, maintenance and medical care is assumed by the county, city or town from which such inmate was committed the payor shall make payment by issuing payment instrument in favor of the agency or individual that provided such accommodations and services, after certification has been made by the head of the institution to which the inmate was legally confined, that the charges for such accommodations, maintenance and medical care were necessary and are just, and that the institution has no available funds for such purpose.

S 2. This act shall take effect immediately.