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

8521

2009-2010 Regular Sessions

I N A S S E M B L Y

May 27, 2009

Introduced by M. of A. AUBRY -- (at request of the Department of Correctional Services) -- read once and referred to the Committee on Correction

AN ACT to amend the correction law, in relation to erroneous sentence notifications

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

Section 1. Section 601-a of the correction law, as amended by chapter 141 of the laws of 2008, is amended to read as follows:

S 601-a. Return of persons erroneously sentenced for the purpose of resentence. Whenever it shall appear to the satisfaction of the department based on facts submitted on behalf of a person sentenced and confined in a state prison, that any such person has been erroneously sentenced, it shall be the duty of the department to communicate with THE SENTENCING COURT, THE INMATE'S DEFENSE ATTORNEY AND the district attorney of the county in which such person was convicted. If upon investigation, [such] THE SENTENCING COURT, THE DEFENSE ATTORNEY OR THE district attorney believes that the person has been so erroneously sentenced, [he or she] THE SENTENCING COURT, OR THE DISTRICT ATTORNEY ACTING AT THE DIRECTION OF THE SENTENCING COURT, shall notify the department AND ARRANGE FOR THE PERSON TO BE HEARD AND PROPERLY RESENTENCED. The department thereupon shall [notify the sheriff of the county, or in counties within the city of New York or the county of Westchester, the commissioner of correction of such city or county from which such person was committed, who shall remove] COMPLY WITH ANY COURT ORDER TO PRODUCE such person from such prison and cause him or her to be taken before the court in which he or she was sentenced for the purpose of resentence. The cost and expense of the return of such person necessarily incurred shall be a charge against the county from which he or she was committed.

S 2. This act shall take effect immediately.

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

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