

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.

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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.