

1309

2009-2010 Regular Sessions

I N   S E N A T E

January 28, 2009

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Introduced by Sen. KRUGER -- 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 eligible inmates for temporary release programs

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

1     Section 1. Subdivision 2 of section 851 of the correction law, as  
2     amended by chapter 60 of the laws of 1994, is amended to read as  
3     follows:  
4     2. "Eligible inmate" means a person confined in an institution who is  
5     eligible for release on parole or who will become eligible for release  
6     on parole or conditional release within two years. Provided, however,  
7     that a person under sentence for an offense defined in paragraphs [a]  
8     (A) and [b] (B) of subdivision one of section 70.02 of the penal law,  
9     where such offense involved the use or threatened use of a deadly weapon  
10    or dangerous instrument shall not be eligible to participate in a work  
11    release program until he or she is eligible for release on parole or who  
12    will be eligible for release on parole or conditional release within  
13    eighteen months. In the case of a person serving an indeterminate  
14    sentence of imprisonment imposed pursuant to the penal law in effect  
15    after September one, nineteen hundred sixty-seven, for the purposes of  
16    this article parole eligibility shall be upon the expiration of the  
17    minimum period of imprisonment fixed by the court or where the court has  
18    not fixed any period, after service of the minimum period fixed by the  
19    state board of parole. If an inmate is denied release on parole, such  
20    inmate shall not be deemed an eligible inmate until he OR SHE is within  
21    two years of his or her next scheduled appearance before the state  
22    parole board. In any case where an inmate is denied release on parole  
23    while participating in a temporary release program, the department shall  
24    review the status of the inmate to determine if continued placement in

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

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1 the program is appropriate. No person convicted of any escape or  
2 absconding offense defined in article two hundred five OR BAIL JUMPING  
3 AS DEFINED IN SECTION 215.55, 215.56 OR 215.57 of the penal law shall be  
4 eligible for temporary release. Further, no person under sentence for  
5 any homicide offense defined in article one hundred twenty-five of the  
6 penal law or of any sex offense defined in article one hundred thirty of  
7 the penal law or of section 255.25 of the penal law shall be eligible to  
8 participate in a work release program as defined in subdivision three of  
9 this section. Notwithstanding the foregoing, no person who is an other-  
10 wise eligible inmate who is under sentence for a crime involving: (a)  
11 infliction of serious physical injury upon another as defined in the  
12 penal law or (b) any other offense involving the use or threatened use  
13 of a deadly weapon may participate in a temporary release program with-  
14 out the written approval of the commissioner. The commissioner shall  
15 promulgate regulations giving direction to the temporary release commit-  
16 tee at each institution in order to aid such committees in carrying out  
17 this mandate.

18 S 2. This act shall take effect immediately, provided, however, that  
19 the amendments to subdivision 2 of section 851 of the correction law  
20 made by section one of this act shall not affect the expiration of such  
21 subdivision and shall be deemed to expire therewith.