

3282

2011-2012 Regular Sessions

I N S E N A T E

February 15, 2011

Introduced by Sen. HASSELL-THOMPSON -- 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 the housing of  
persons nineteen, twenty and twenty-one years of age within the  
correction department

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

1 Section 1. Subdivisions 4 and 13 of section 500-b of the correction  
2 law, subdivision 4 as added by chapter 907 of the laws of 1984 and  
3 subdivision 13 as amended by chapter 574 of the laws of 1985, are  
4 amended to read as follows:

5 4. (A) No person under nineteen years of age shall be placed or kept  
6 or allowed to be at any time with any prisoner or prisoners [nineteen]  
7 TWENTY-TWO years of age or older, in any room, dormitory, cell or tier  
8 of the buildings of such institution unless separately grouped to  
9 prevent access to persons under nineteen years of age by prisoners  
10 [nineteen] TWENTY-TWO years of age or older.

11 (B) PERSONS NINETEEN, TWENTY OR TWENTY-ONE YEARS OF AGE MAY, AT THE  
12 DISCRETION OF THE CHIEF ADMINISTRATIVE OFFICER, BE PLACED OR KEPT EITHER  
13 WITH PERSONS UNDER NINETEEN YEARS OF AGE OR WITH PERSONS TWENTY-TWO  
14 YEARS OF AGE OR OLDER, PROVIDED HOWEVER THAT IN MAKING THE DECISION ON  
15 WHERE TO HOUSE SUCH NINETEEN, TWENTY OR TWENTY-ONE YEAR OLD PERSONS, THE  
16 CHIEF ADMINISTRATIVE OFFICER SHALL CONSIDER ALL OF THE FACTORS SET FORTH  
17 IN PARAGRAPH (A) OF SUBDIVISION SEVEN OF THIS SECTION.

18 13. Where in the opinion of the chief administrative officer an emer-  
19 gency overcrowding condition exists in a local correctional facility  
20 caused in part by the [prohibition against the commingling of persons  
21 under nineteen years of age with persons nineteen years of age or older  
22 or the commingling of persons nineteen years of age or older with  
23 persons under nineteen years of age] RESTRICTIONS UPON COMMINGLING OF

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

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1 CATEGORIES OF PERSONS SET FORTH IN SUBDIVISION FOUR OF THIS SECTION, the  
2 chief administrative officer may apply to the commission for permission  
3 to commingle the aforementioned categories of inmates for a period not  
4 to exceed thirty days as provided herein. The commission shall acknowl-  
5 edge to the chief administrative officer the receipt of such applica-  
6 tion upon its receipt. The chief administrative officer shall be permitted  
7 to commingle such inmates upon acknowledgment of receipt of the applica-  
8 tion by the commission. The commission shall assess the application  
9 within seven days of receipt. The commission shall deny any such appli-  
10 cation and shall prohibit the continued commingling of such inmates  
11 where it has found that the local correctional facility does not meet  
12 the criteria set forth in this subdivision and further is in substantial  
13 noncompliance with minimum staffing requirements as provided in commis-  
14 sion rules and regulations. In addition, the commission shall determine  
15 whether the commingling of such inmates presents a danger to the health,  
16 safety or welfare of any such inmate. If no such danger exists the chief  
17 administrative officer may continue the commingling until the expiration  
18 of the aforementioned thirty day period or until such time as he deter-  
19 mines that the overcrowding which necessitated the commingling no longer  
20 exists, whichever occurs first. In the event the commission determines  
21 that such danger exists, it shall immediately notify the chief adminis-  
22 trative officer, and the commingling of such inmates shall cease. Such  
23 notification shall include specific measures which should be undertaken  
24 by the chief administrative officer, to correct such dangers. The chief  
25 administrative officer may correct such dangers and reapply to the  
26 commission for permission to commingle; however, no commingling may take  
27 place until such time as the commission certifies that the facility is  
28 now in compliance with the measures set forth in the notification under  
29 this subdivision. When such certification has been received by the chief  
30 administrative officer, the commingling may continue for thirty days,  
31 less any time during which the chief administrative officer commingled  
32 such inmates following his application to the commission, or until such  
33 time as he determines that the overcrowding which necessitated the  
34 commingling no longer exists, whichever occurs first. The chief adminis-  
35 trative officer may apply for permission to commingle such inmates for  
36 up to two additional thirty day periods, in conformity with the  
37 provisions and the requirements of this subdivision, in a given calendar  
38 year. For the period ending December thirtieth, nineteen hundred eight-  
39 y-four, a locality may not apply for more than one thirty day commin-  
40 gling period.

41 S 2. This act shall take effect immediately; provided that the amend-  
42 ments to section 500-b of the correction law made by section one of this  
43 act shall not affect the repeal of such section and shall be deemed to  
44 be repealed therewith.