

5906

2011-2012 Regular Sessions

I N S E N A T E

October 5, 2011

Introduced by Sen. MONTGOMERY -- read twice and ordered printed, and  
when printed to be committed to the Committee on Rules

AN ACT to amend the correction law, in relation to limiting the segre-  
gated confinement of persons in a correctional facility with serious  
mental illness

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

1 Section 1. Paragraphs (c), (d), (e) and (f) of subdivision 6 of  
2 section 137 of the correction law are relettered paragraphs (e), (f),  
3 (g) and (h) and two new paragraphs (c) and (d) are added and subpara-  
4 graph (i) of paragraph (f), as amended by chapter 1 of the laws of 2008  
5 and as relettered by this section, is amended to read as follows:

6 (C) INMATES SHALL NOT BE IN SEGREGATED CONFINEMENT FOR REASON OF  
7 DISCIPLINE, DETENTION, ADMINISTRATIVE SEGREGATION, PROTECTIVE CUSTODY,  
8 KEEPLOCK, OR ANY OTHER REASON FOR ADMISSION, UNLESS THEY HAVE ENGAGED IN  
9 HIGHLY DANGEROUS, VIOLENT OR SERIOUS ESCAPE-RELATED BEHAVIOR WHILE  
10 INCARCERATED IN THAT FACILITY;

11 (D) CONFINEMENT IN SEGREGATED CONFINEMENT SHALL BE LIMITED TO NOT MORE  
12 THAN NINETY DAYS, EXCEPT FOR AN INMATE WHOSE BEHAVIOR EXPOSES A PATTERN  
13 OF EXTREME VIOLENCE OR DANGER TO HIMSELF OR OTHERS AND, PROVIDED THAT  
14 FOR THOSE CONFINED LONGER THAN NINETY DAYS, THERE SHALL BE A REVIEW  
15 EVERY NINETY DAYS BY AN INDEPENDENT REVIEW BOARD, TO BE KNOWN AS THE  
16 INMATE'S SPECIAL HOUSING UNIT REVIEW COUNCIL TO DETERMINE WHETHER  
17 CONTINUED SEGREGATED CONFINEMENT IS WARRANTED AND NECESSARY. SUCH COUN-  
18 CIL SHALL BE COMPOSED OF SEVEN MEMBERS APPOINTED BY THE GOVERNOR WITH  
19 THE ADVICE AND CONSENT OF THE SENATE. ONE MEMBER SHALL BE AN ATTORNEY  
20 ADMITTED TO PRACTICE LAW IN THIS STATE, ONE MEMBER SHALL BE A MENTAL  
21 HEALTH PROFESSIONAL, ONE MEMBER SHALL BE A CRIMINAL JUSTICE EXPERT  
22 APPOINTED FROM WITHIN EMPLOYEES OF THE STATE UNIVERSITY SYSTEM, AND ONE  
23 MEMBER SHALL BE A FORMER INMATE;

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

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1 (i) Except as set forth in clause (E) of subparagraph (ii) of this  
2 paragraph, the department, in consultation with mental health clini-  
3 cians, shall divert TO A RESIDENTIAL MENTAL HEALTH TREATMENT UNIT, or  
4 SHALL remove inmates with serious mental illness FROM SEGREGATED  
5 CONFINEMENT, WHETHER SUCH SERIOUS MENTAL ILLNESS, as defined in para-  
6 graph [(e)] (G) of this subdivision, [from segregated confinement, where  
7 such confinement could potentially be for a period in excess of thirty  
8 days, to a residential mental health treatment unit] PRECEDED SUCH  
9 CONFINEMENT OR DEVELOPED DURING THE COURSE OF SUCH CONFINEMENT. Nothing  
10 in this paragraph shall be deemed to prevent the disciplinary process  
11 from proceeding in accordance with department rules and regulations for  
12 disciplinary hearings.

13 S 2. Section 500-k of the correction law, as amended by chapter 2 of  
14 the laws of 2008, is amended to read as follows:

15 S 500-k. Treatment of inmates. Subdivisions five and six of section  
16 one hundred thirty-seven of this chapter, except paragraphs [(d)] (F)  
17 and [(e)] (G) of subdivision six of such section, relating to the treat-  
18 ment of inmates in state correctional facilities are applicable to  
19 inmates confined in county jails; except that the report required by  
20 paragraph [(f)] (H) of subdivision six of such section shall be made to  
21 a person designated to receive such report in the rules and regulations  
22 of the state commission of correction, or in any county or city where  
23 there is a department of [correction] CORRECTIONAL SERVICES, to the head  
24 of such department.

25 S 3. This act shall take effect on the one hundred twentieth day after  
26 it shall have become a law. Effective immediately, the addition, amend-  
27 ment and/or repeal of any rule or regulation necessary for the implemen-  
28 tation of this act on its effective date is authorized to be made on or  
29 before such date.