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

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2011-2012 Regular Sessions

I N A S S E M B L Y

May 10, 2011

Introduced by M. of A. N. RIVERA -- read once and referred to the Committee on Correction

AN ACT to amend the correction law, in relation to requiring the department of corrections and community supervision to place female inmates at correctional institutions and facilities closest to their home

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

Section 1. Legislative intent. The legislature hereby finds that in order to improve the outcomes for women incarcerated in New York state prisons and that in order to provide for a more stable family environment for the children of incarcerated mothers, there must be a clear demonstration by government bureaucracies involved with correctional services to provide the least restrictive environments for women prisoners so that they can remain in close proximity to their families and children during their stay in state prison.

It is a well understood factor by health care professionals and social workers that the ability of incarcerated mothers to maintain close and constant contact with their family and children is a contributing factor to rehabilitation and better re-integration into society once their sentence is served.

Currently, over eighty-three percent of women in New York state prisons were convicted of non-violent offenses. Yet their sentences incorporate a penalty not quantified in law but serves as an additional punishment by placing the majority of these women in prison facilities an unnecessarily long distance away from their families and children

Over five thousand two hundred New York children have mothers in prison. For many of these children, seeing their mothers and scheduling visitations is a hardship. They are forced to travel as far as eight hour, one-way trips to see their mothers. For most this is an expense and a hardship that rests on elderly family members and innocent children.

It has been estimated that over ninety percent of incarcerated women in New York have been the victims of sexual and/or physical abuse at some point in their lives. Another forty-five percent have been diag-

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

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nosed with mental illness. Yet they are sentenced to facilities far from their families and in a manner that is inconsistent with what research and mental health care professionals tell us: That being close to family and having access to family members is a factor in recovery from mental illness and a contributor to better managing their illness.

It is clear women prisoners must be housed in correctional facilities as close to their homes as possible and as administratively permissible that in order to better meet the rehabilitation needs of incarcerated mothers and to better meet the emotional and psychological needs of their children. The continued costs to society of continuing to house women prisoners long distances from their families and children can be reduced significantly by better managing the placement of women prisoners at time of sentence and by the New York state department of corrections and community supervision.

S 2. Section 158 of the correction law, as added by chapter 788 of the laws of 1968, is amended to read as follows:

S 158. Designation of Place of Confinement. 1. The commissioner may designate as a place of confinement of a prisoner any available, suitable and appropriate correctional institution or facility whether maintained by the city, state or federal government and may at any time transfer a prisoner from one place of confinement to another. Where such designation or transfer is to either a state or federal correctional institution or facility, it shall be subject to the prior approval of the appropriate person or agency having jurisdiction and control over such facility and upon such terms and conditions as such person or agency deems appropriate.

2. NOTWITHSTANDING THE PROVISIONS OF SUBDIVISION ONE OF THIS SECTION, THE COMMISSIONER SHALL DESIGNATE AS A PLACE OF CONFINEMENT OF A FEMALE PRISONER, WHO HAS CHILDREN AND/OR HAS BEEN IDENTIFIED AS HAVING A MENTAL ILLNESS AS DEFINED IN SECTION FOUR HUNDRED OF THIS CHAPTER, THE CORRECTIONAL INSTITUTION OR FACILITY WHICH IS LOCATED IN CLOSEST PROXIMITY TO THE FEMALE PRISONER'S HOME OR TO THE HOME OF HER CHILDREN, PROVIDED THAT SUCH CORRECTIONAL INSTITUTION OR FACILITY IS SUITABLE AND APPROPRIATE AS DETERMINED BY THE COMMISSIONER, UNLESS SUCH FEMALE PRISONER HAS BEEN IDENTIFIED AS HAVING A MENTAL ILLNESS AND THE COMMISSIONER DEEMS THAT SUCH PLACEMENT WOULD POSE A THREAT TO THE FAMILY AND/OR CHILDREN OF SUCH FEMALE PRISONER.

S 3. The commissioner of the department of corrections and community supervision is authorized and directed to implement and finalize a process to relocate female prisoners currently in the custody of the department of corrections and community supervision to correctional institutions and facilities which are located in the closest proximity to the female prisoner's home or the home of her children, within nine months from the effective date of this section.

S 4. The commissioner of the department of corrections and community supervision shall collect and maintain the following data from all prisoners:

1. marital status; and

2. whether such prisoner has children, and if so, who has custody of such children.

S 5. This act shall take effect on the ninetieth day after it shall have become a law, provided, however, that effective immediately, the addition and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized and directed to be made and completed on or before such effective date.