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

2048

2011-2012 Regular Sessions

I N S E N A T E

January 18, 2011

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:

Section 1. The opening paragraph of subdivision 2 of section 851 of the correction law, as amended by chapter 320 of the laws of 2006, is amended to read as follows:

"Eligible inmate" means: a person confined in an institution who is eligible for release on parole or who will become eligible for release on parole or conditional release within two years. Provided, however, that a person under sentence for an offense defined in paragraphs (a) and (b) of subdivision one of section 70.02 of the penal law, where such offense involved the use or threatened use of a deadly weapon or dangerous instrument shall not be eligible to participate in a work release program until he or she is eligible for release on parole or who will be eligible for release on parole or conditional release within eighteen months. Provided, further, however, that a person under a determinate sentence as a second felony drug offender for a class B felony offense defined in article two hundred twenty of the penal law, who was sentenced pursuant to section 70.70 of such law, shall not be eligible to participate in a temporary release program until the time served under imprisonment for his or her determinate sentence, including any jail time credited pursuant to the provisions of article seventy of the penal law, shall be at least eighteen months. In the case of a person serving an indeterminate sentence of imprisonment imposed pursuant to the penal law in effect after September one, nineteen hundred sixty-seven, for the purposes of this article parole eligibility shall be upon the expiration of the minimum period of imprisonment fixed by the court

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

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or where the court has not fixed any period, after service of the minimum period fixed by the state board of parole. If an inmate is denied release on parole, such inmate shall not be deemed an eligible inmate until he or she is within two years of his or her next scheduled appearance before the state parole board. In any case where an inmate is denied release on parole while participating in a temporary release program, the department shall review the status of the inmate to determine if continued placement in the program is appropriate. No person convicted of any escape or absconding offense defined in article two hundred five OR BAIL JUMPING AS DEFINED IN SECTION 215.55, 215.56 OR 215.57 of the penal law shall be eligible for temporary release. Further, no person under sentence for aggravated harassment of an employee by an inmate as defined in section 240.32 of the penal law for, any homicide offense defined in article one hundred twenty-five of the penal law, for any sex offense defined in article one hundred thirty of the penal law, or for an offense defined in section 255.25, 255.26 or 255.27 of the penal law shall be eligible to participate in a work release program as defined in subdivision three of this section. Nor shall any person under sentence for any sex offense defined in article one hundred thirty of the penal law be eligible to participate in a community services program as defined in subdivision five of this section. Notwithstanding the foregoing, no person who is an otherwise eligible inmate who is under sentence for a crime involving: (a) infliction of serious physical injury upon another as defined in the penal law or (b) any other offense involving the use or threatened use of a deadly weapon may participate in a temporary release program without the written approval of the commissioner. The commissioner shall promulgate regulations giving direction to the temporary release committee at each institution in order to aid such committees in carrying out this mandate.

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