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

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 segregated confinement of persons in a correctional facility with serious mental illness

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

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

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

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

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

LBD13525-01-1

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

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

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

S 3. This act shall take effect on the one hundred twentieth day after it shall have become a law. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date is authorized to be made on or before such date.