

2308--A

2013-2014 Regular Sessions

I N   A S S E M B L Y

January 14, 2013

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Introduced by M. of A. CRESPO, AUBRY, PERRY -- Multi-Sponsored by -- M. of A. LENTOL -- read once and referred to the Committee on Correction -- recommitted to the Committee on Correction in accordance with Assembly Rule 3, sec. 2 -- reported and referred to the Committee on Ways and Means -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the correction law, in relation to establishing the pilot project for the placement of inmates close to home; and providing for the repeal of such provisions upon expiration thereof

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

1     Section 1. Short title. This act shall be known and may be cited as  
2     the "pilot project for the placement of inmates close to home".  
3     S 2. Legislative intent. The legislature hereby finds and declares  
4     that research shows inmates who maintain family ties during incarceration  
5     have lower rates of recidivism than inmates who do not. Further,  
6     most inmates are parents, and more than 80,000 children in the state of  
7     New York have a parent incarcerated in the state prison system.  
8     The legislature further finds that the department of corrections and  
9     community supervision should consider proximity to minor children among  
10    the key criteria of security and health and program needs when determining  
11    prison assignments and transfers of parents, and should support  
12    increased access of children to their incarcerated parents through the  
13    use of technology and programs currently available within the department.  
14    ment.  
15    The legislature therefore declares that there is a need to develop  
16    classification criteria that would place inmates in proximity to their  
17    family members and home communities, and in particular for those inmates  
18    who are parents of minor children in the appropriate correctional facility  
19    located closest to those children provided such placement is other-

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

LBD02561-10-4

1 wise appropriate and suitable, and would facilitate increased contact  
2 between such inmate and his or her child or children.

3 S 3. The correction law is amended by adding a new section 72-c to  
4 read as follows:

5 S 72-C. PILOT PROJECT FOR THE PLACEMENT OF INMATES CLOSE TO HOME. 1.  
6 THE COMMISSIONER SHALL ESTABLISH A PILOT PROGRAM AT A DESIGNATED CORREC-  
7 TIONAL FACILITY FOR THE PURPOSE OF HOUSING INMATES WHO ARE PARENTS OF  
8 MINOR CHILDREN IN THE CORRECTIONAL FACILITY WHICH IS LOCATED IN CLOSEST  
9 PROXIMITY TO THE PRIMARY PLACE OF RESIDENCE OF ANY SUCH INMATE'S MINOR  
10 CHILD OR CHILDREN UNDER EIGHTEEN YEARS OF AGE, PROVIDED THAT SUCH PLACE-  
11 MENT IS OTHERWISE SUITABLE AND APPROPRIATE PURSUANT TO THE REGULATIONS  
12 OF THE DEPARTMENT AND WOULD FACILITATE INCREASED CONTACT BETWEEN SUCH  
13 INMATE AND HIS OR HER CHILD OR CHILDREN. FOR PURPOSES OF THIS PILOT  
14 PROGRAM, THERE SHALL BE A MAXIMUM OF ONE HUNDRED MALE AND FEMALE  
15 INMATES, WHO ON A VOLUNTARY BASIS REQUEST PLACEMENT IN THE PILOT PROGRAM  
16 AND WHO ARE PARENTS OF MINOR CHILDREN. IN SELECTING SUCH INMATES THE  
17 DEPARTMENT SHALL CONSULT WITH THE OFFICE OF CHILDREN AND FAMILY SERVICES  
18 AND THE LOCAL DISTRICT OF SOCIAL SERVICES LOCATED IN THE COUNTY WHERE  
19 SUCH INMATE'S CHILD RESIDES TO DETERMINE IF ANY REASONS EXIST, SUCH AS  
20 NO VISITATION ORDER, THAT MAY PREVENT THE INMATE FROM PARTICIPATING IN  
21 THE PILOT PROGRAM. IF THE INMATE'S CHILD AND/OR FAMILY IS SUBJECT TO THE  
22 PREVIEW OF THE OFFICE OF CHILDREN AND FAMILY SERVICES OR A LOCAL SOCIAL  
23 SERVICES DISTRICT, THE DEPARTMENT SHALL CONSULT WITH THE ASSIGNED AGENCY  
24 TO DETERMINE WHETHER THE CHILD AND/OR FAMILY IS SUITABLE FOR PARTIC-  
25 IPATION IN THE PILOT PROGRAM, AND, IF SO, COLLABORATE WITH SUCH AGENCY  
26 TO OBTAIN INFORMATION RELATING TO SUCH CHILD AND/OR FAMILY AS SHALL BE  
27 NECESSARY TO DETERMINE THE EFFECTIVENESS OF THE PILOT PROGRAM.

28 2. THE COMMISSIONER, IN CONSULTATION WITH APPROPRIATE COMMUNITY ORGAN-  
29 IZATIONS, SHALL SUBMIT WITHIN ONE YEAR OF THE EFFECTIVE DATE OF THIS  
30 SECTION AND ANNUALLY THEREAFTER A REPORT TO THE GOVERNOR, THE TEMPORARY  
31 PRESIDENT OF THE SENATE AND THE SPEAKER OF THE ASSEMBLY ON THE EFFEC-  
32 TIVENESS OF THIS PILOT PROJECT. SUCH REPORTS SHALL INCLUDE AN ANALYSIS  
33 OF THE IMPACT ON THE INMATE, INCLUDING FACTORS SUCH AS INSTITUTIONAL  
34 ADJUSTMENT, BEHAVIOR INFRACTIONS, AND PROGRAM PARTICIPATION, AMONG  
35 RELATED RELEVANT FACTORS, AND ON HIS OR HER CHILDREN AND FAMILY PARTIC-  
36 IPANTS. THE REPORTS SHALL ALSO INCLUDE ANALYSIS OF FACTORS SUCH AS  
37 FREQUENCY OF VISITS, REPORTS FROM CAREGIVERS ABOUT CHILDREN'S CONNECTED-  
38 NESS TO THEIR INCARCERATED PARENTS, CHILDREN'S EMOTIONAL WELL-BEING AND  
39 BEHAVIOR IN THE HOME, AND OTHER RELEVANT FACTORS AS INCLUDED IN THE  
40 CAREGIVER'S REPORTS. FOR CHILD WELFARE CASES, IN ADDITION TO THE ABOVE  
41 FACTORS, PROGRESS TOWARD PERMANENCY GOALS, PARENT'S PARTICIPATION IN  
42 CASE PLANNING, AND OTHER RELEVANT FACTORS SHALL BE NOTED. IN CASES WHERE  
43 AN INMATE PARENT'S RELEASE IS IMMINENT, AS DETERMINED BY THE COMMISSION-  
44 ER, THE REPORT SHALL EXAMINE THE LEVEL OF SUPPORT RECEIVED AND PROVIDED  
45 BY THE INMATE'S FAMILY THROUGH FAMILY INVOLVEMENT AND THE ATTACHMENT  
46 BETWEEN A RETURNING PARENT AND HIS OR HER CHILDREN UPON REUNIFICATION.  
47 THE REPORTS SHALL ALSO INCLUDE SUCH IMPACT ON INSTITUTIONAL SAFETY AND  
48 PERFORMANCE AND ANY RECOMMENDATIONS FOR ADDITIONAL LEGISLATIVE ENACT-  
49 MENTS THAT MAY BE NEEDED OR REQUIRED, TO IMPROVE, ENHANCE AND SUBSE-  
50 QUENTLY EXPAND THE PROGRAM TO OTHER CORRECTIONAL FACILITIES AS DETER-  
51 MINED TO BE APPROPRIATE BY THE COMMISSIONER. IN COMPILING SUCH REPORTS,  
52 THE COMMISSIONER MAY ESTABLISH AND UTILIZE A CONTROL GROUP AND, IF HE OR  
53 SHE FAILS TO DO SO, THE COMMISSIONER SHALL INCLUDE AN EXPLANATION AS TO  
54 WHY A CONTROL GROUP WAS NOT USED.

55 3. NO PERSON SHALL HAVE THE RIGHT TO DEMAND OR REQUIRE PARTICIPATION  
56 IN THE PILOT PROJECT AUTHORIZED BY THIS SECTION. THE COMMISSIONER MAY

1 REVOKE AT ANY TIME PARTICIPATION IN SUCH PROJECT FOR ANY SERIOUS DISCI-  
2 PLINARY INFRACTION COMMITTED BY THE INMATE OR FOR ANY FAILURE TO CONTIN-  
3 UE TO PARTICIPATE SUCCESSFULLY IN ANY ASSIGNED WORK AND TREATMENT  
4 PROGRAM AFTER PLACEMENT IN SUCH PILOT PROGRAM.

5 4. AN ELIGIBILITY PREFERENCE SHALL BE GRANTED FOR CHILD WELFARE CASES.  
6 ADMISSION SHALL BE GRANTED ON A ROLLING BASIS AND PRIORITY SHALL BE  
7 GIVEN TO INMATES WHO WERE PRIMARY CAREGIVERS, ALTHOUGH ALL INMATE  
8 PARENTS SHALL BE CONSIDERED. THE FAMILIES OF INMATES SHALL SUBMIT DEMON-  
9 STRATED PROOF THAT THEY WILL VISIT THE INMATE IF THE PERSON LIVES CLOS-  
10 ER, AND THE INMATE SHALL REQUEST THAT SUCH FAMILY MEMBERS SUBMIT  
11 LETTERS. OTHER RELEVANT FACTORS SHALL BE TAKEN INTO CONSIDERATION,  
12 INCLUDING BUT NOT LIMITED TO, WHETHER AN INMATE'S FAMILY MEMBER HAS AN  
13 UNDUE HARDSHIP THAT WOULD AFFECT THE PERSON'S ABILITY TO VISIT THE  
14 INMATE. SUCH HARDSHIP SHALL INCLUDE, BUT NOT BE LIMITED TO, A PHYSICAL  
15 DISABILITY OR SERIOUS ILLNESS THAT INHIBITS TRAVEL, OR WHETHER THEY  
16 WOULD NOT BE ABLE TO REASONABLY VISIT THE INMATE BECAUSE THEY WOULD BE  
17 UNABLE TO VISIT BY PUBLIC TRANSPORTATION AND CANNOT AFFORD OR USE A  
18 MOTOR VEHICLE. ANY ACTION BY THE COMMISSIONER PURSUANT TO THIS SECTION  
19 SHALL BE DEEMED A JUDICIAL FUNCTION AND SHALL NOT BE REVIEWABLE IF DONE  
20 IN ACCORDANCE WITH LAW.

21 5. INMATES SHALL NOT BE ELIGIBLE FOR THIS PROGRAM FOR A VARIETY OF  
22 FACTORS, AS LISTED IN, BUT NOT LIMITED TO, THOSE ENUMERATED IN THIS  
23 SECTION. INMATES WHO ARE INCARCERATED FOR VIOLATING PAROLE OR CONDI-  
24 TIONAL RELEASE SHALL BE INELIGIBLE FOR THIS PROGRAM. INMATES WHO WERE  
25 CONVICTED OF A SEX OFFENSE SHALL BE INELIGIBLE FOR THIS PROGRAM. INMATES  
26 WHO HAVE COMMITTED A CRIME AGAINST A CHILD SHALL BE INELIGIBLE FOR THIS  
27 PROGRAM. INMATES FOR WHOM A CLOSER LOCATION WOULD NOT LEAD TO MORE VISI-  
28 TORS SHALL NOT BE ELIGIBLE FOR THIS PROGRAM. INMATES WHO HAVE NOT HAD  
29 CONTACT WITH THEIR CHILDREN IN OVER A YEAR OUT OF THEIR OWN VOLITION  
30 SHALL NOT BE ELIGIBLE FOR THIS PROGRAM, UNLESS THERE IS A COMPELLING  
31 REASON FOR NOT HAVING HAD CONTACT WITH THEIR CHILDREN. THE COMMISSIONER  
32 IS EMPOWERED TO GRANT PREFERENCE TO MORE INVOLVED INMATE PARENTS, AS  
33 DETERMINED BY THE AMOUNT OF CONTACT THAT THE CHILDREN HAVE WITH THEIR  
34 PARENTS, SHOULD THE COMMISSIONER DETERMINE TO DO SO. INMATES WHO WOULD  
35 ORDINARILY BE SENT TO A STRICTER SECURITY LEVEL PRISON SHALL NOT, UNLESS  
36 COMPELLING REASONS SHALL SUGGEST OTHERWISE, BE SENT TO A LIGHTER SECURI-  
37 TY PRISON BECAUSE OF PROXIMITY ON THE BASIS OF THIS PROGRAM. MENTAL  
38 HEALTH ISSUES SHALL NOT BE AN ISSUE OF INELIGIBILITY WITH REGARD TO THIS  
39 PROGRAM, UNLESS THERE IS A COMPELLING REASON TO DO SO.

40 S 4. This act shall take effect six months after it shall have become  
41 a law and shall expire 3 years after it shall take effect when upon such  
42 date the provisions of this act shall be deemed repealed. Effective  
43 immediately, the addition, amendment and/or repeal of any rule or regu-  
44 lation necessary for the implementation of this act on its effective  
45 date is authorized to be made on or before such date.