

1401

2013-2014 Regular Sessions

I N S E N A T E

(PREFILED)

January 9, 2013

Introduced by Sens. MONTGOMERY, PERKINS -- 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 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:

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

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

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1 APPOINTED FROM WITHIN EMPLOYEES OF THE STATE UNIVERSITY SYSTEM, AND ONE
2 MEMBER SHALL BE A FORMER INMATE;

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

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

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

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