

1789--A

2013-2014 Regular Sessions

I N S E N A T E

(PREFILED)

January 9, 2013

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Introduced by Sens. RIVERA, MONTGOMERY, HASSELL-THOMPSON, KRUEGER, PARKER, STAVISKY -- read twice and ordered printed, and when printed to be committed to the Committee on Crime Victims, Crime and Correction -- recommitted to the Committee on Crime Victims, Crime and Correction in accordance with Senate Rule 6, sec. 8 -- 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  
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.

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

LBD02561-09-4

1 ity located closest to those children provided such placement is other-  
2 wise appropriate and suitable, and would facilitate increased contact  
3 between such inmate and his or her child or children.

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

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

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

1 3. NO PERSON SHALL HAVE THE RIGHT TO DEMAND OR REQUIRE PARTICIPATION  
2 IN THE PILOT PROJECT AUTHORIZED BY THIS SECTION. THE COMMISSIONER MAY  
3 REVOKE AT ANY TIME PARTICIPATION IN SUCH PROJECT FOR ANY SERIOUS DISCI-  
4 PLINARY INFRACTION COMMITTED BY THE INMATE OR FOR ANY FAILURE TO CONTIN-  
5 UE TO PARTICIPATE SUCCESSFULLY IN ANY ASSIGNED WORK AND TREATMENT  
6 PROGRAM AFTER PLACEMENT IN SUCH PILOT PROGRAM.

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

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

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