

5740

2015-2016 Regular Sessions

I N S E N A T E

June 1, 2015

Introduced by Sens. MARTINS, GALLIVAN, NOZZOLIO, YOUNG -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the correction law, the state finance law, the penal law and the criminal procedure law, in relation to correctional facilities solely for the confinement of individuals aged sixteen and seventeen years

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

1 Section 1. Subdivision 3 of section 70 of the correction law is
2 amended by adding a new paragraph (c) to read as follows:
3 (C) THE COMMISSIONER SHALL ESTABLISH AND MAINTAIN ONE OR MORE CORREC-
4 TIONAL FACILITIES SOLELY FOR THE CONFINEMENT OF THOSE INDIVIDUALS AGED
5 SIXTEEN AND SEVENTEEN YEARS COMMITTED TO THE CUSTODY OF THE DEPARTMENT.
6 S 2. Subdivision 4 of section 500-b of the correction law, as amended
7 by section 1 of part M of chapter 55 of the laws of 2014, is amended to
8 read as follows:
9 4. No person under eighteen years of age shall be placed or kept or
10 allowed to be at any time with any prisoner or prisoners eighteen years
11 of age or older, in any room, dormitory, cell or tier of the buildings
12 of such institution unless separately grouped to prevent access to
13 persons under eighteen years of age by prisoners eighteen years of age
14 or older. WHEN AT ALL PRACTICABLE, IN AREAS OUTSIDE OF HOUSING UNITS,
15 MAINTAIN SIGHT AND SOUND SEPARATION BETWEEN INMATES UNDER EIGHTEEN YEARS
16 OLD AND ADULT INMATES OR PROVIDE DIRECT STAFF SUPERVISION WHEN YOUTHFUL
17 INMATES AND ADULT INMATES HAVE SIGHT, SOUND, OR PHYSICAL CONTACT. THE
18 CHIEF ADMINISTRATIVE OFFICER SHALL MAKE BEST EFFORTS TO AVOID PLACING
19 INMATES UNDER EIGHTEEN YEARS OLD IN ISOLATION TO COMPLY WITH THIS
20 PROVISION.
21 S 3. The state finance law is amended by adding a new section 53-e to
22 read as follows:

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

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1 S 53-E. CONFINEMENT OF YOUTH. 1. WITHIN THE APPROPRIATION MADE AVAIL-
2 ABLE FOR SERVICES AND EXPENSES RELATED TO RAISING THE AGE OF JUVENILE
3 JURISDICTION, PURSUANT TO CHAPTER FIFTY-THREE OF THE LAWS OF TWO THOU-
4 SAND FIFTEEN, A PORTION OF SUCH FUNDS SHALL BE MADE AVAILABLE TO LOCAL
5 CORRECTIONAL FACILITIES, AS DEFINED IN SUBDIVISION SIXTEEN OF SECTION
6 TWO OF THE CORRECTION LAW, FOR SUCH NEEDS AS MAY ARISE IN ORDER TO
7 COMPLY WITH SUBDIVISION FOUR OF SECTION FIVE HUNDRED-B OF THE CORRECTION
8 LAW.

9 2. WITHIN THE APPROPRIATION MADE AVAILABLE FOR SERVICES AND EXPENSES
10 RELATED TO RAISING THE AGE OF JUVENILE JURISDICTION, PURSUANT TO CHAPTER
11 FIFTY-THREE OF THE LAWS OF TWO THOUSAND FIFTEEN, A PORTION OF SUCH FUNDS
12 SHALL BE MADE AVAILABLE TO LOCAL CORRECTIONAL FACILITIES, AS DEFINED BY
13 SUBDIVISION SIXTEEN OF SECTION TWO OF THE CORRECTION LAW, FOR SERVICES
14 INCLUDING BUT NOT LIMITED TO EDUCATIONAL NEEDS, MENTAL HEALTH TREATMENT
15 AND SUBSTANCE ABUSE SERVICES.

16 3. WITHIN THE APPROPRIATION MADE AVAILABLE FOR SERVICES AND EXPENSES
17 RELATED TO RAISING THE AGE OF JUVENILE JURISDICTION, PURSUANT TO CHAPTER
18 FIFTY-THREE OF THE LAWS OF TWO THOUSAND FIFTEEN, A PORTION OF SUCH FUNDS
19 SHALL BE MADE AVAILABLE TO THE FAMILY COURT SYSTEM, FOR ADDITIONAL
20 NEEDS, INCLUDING BUT NOT LIMITED TO ADMINISTRATIVE COSTS, EXTENDED
21 HOURS, AND CASELOAD MANAGEMENT THAT ARISE FROM ADDITIONAL CASES OF
22 SIXTEEN AND SEVENTEEN YEAR OLDS.

23 S 4. Subdivision 18 of section 10.00 of the penal law is amended by
24 adding a new paragraph 3 to read as follows:

25 (3) A PERSON SIXTEEN OR SEVENTEEN YEARS OLD WHO IS CRIMINALLY RESPON-
26 SIBLE FOR ACTS CONSTITUTING ANY CRIMES WHICH ARE CLASSIFIED AS MISDEMEA-
27 NOR OFFENSES IN THIS CHAPTER.

28 S 5. The criminal procedure law is amended by adding a new section
29 170.75 to read as follows:

30 S 170.75 PROCEEDINGS UPON INFORMATION, PROSECUTOR'S INFORMATION AND
31 MISDEMEANOR COMPLAINT; JUVENILE OFFENDER.

32 1. A LOCAL CRIMINAL COURT SHALL, AT THE REQUEST OF THE DISTRICT ATTOR-
33 NEY, ORDER REMOVAL OF AN ACTION AGAINST A JUVENILE OFFENDER TO THE FAMI-
34 LY COURT, PURSUANT TO THE PROVISIONS OF ARTICLE SEVEN HUNDRED
35 TWENTY-FIVE OF THIS CHAPTER IF, UPON CONSIDERATION OF THE FACTORS SET
36 FORTH IN SUBDIVISION TWO OF SECTION 210.43 OF THIS CHAPTER, THE COURT
37 DETERMINED THAT REMOVAL OF THE ACTION TO THE FAMILY COURT WOULD BE IN
38 THE INTERESTS OF JUSTICE.

39 2. IF, BASED ON THE REQUIREMENTS SET FORTH UNDER SUBDIVISION ONE OF
40 THIS SECTION, THE COURT ORDERS REMOVAL OF THE ACTION TO FAMILY COURT, IT
41 SHALL STATE ON THE RECORD THE FACTOR OR FACTORS UPON WHICH ITS DETERMI-
42 NATION IS BASED, AND THE COURT SHALL GIVE ITS REASONS FOR REMOVAL IN
43 DETAIL AND NOT IN CONCLUSORY TERMS.

44 S 6. Section 725.00 of the criminal procedure law, as amended by chap-
45 ter 411 of the laws of 1979, is amended to read as follows:

46 S 725.00 Applicability.

47 The provisions of this article apply in any case where a court directs
48 that an action or charge is to be removed to the family court under
49 section 170.75, 180.75, 190.71, 210.43, 220.10, 310.85 or 330.25 of this
50 chapter.

51 S 7. This act shall take effect immediately; provided, however, that
52 the amendments to subdivision 4 of section 500-b of the correction law
53 made by section two of this act shall not affect the repeal of such
54 section and shall be deemed to repeal therewith.