STATE OF NEW YORK

5701--A

2017-2018 Regular Sessions

IN SENATE

April 26, 2017

Introduced by Sen. HAMILTON -- read twice and ordered printed, and when printed to be committed to the Committee on Crime Victims, Crime and Correction -- 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 female 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:

Section 1. Short title. This act shall be known and may be cited as the "pilot project for the placement of female inmates close to home".

§ 2. Legislative intent. The legislature hereby finds and declares that research shows female inmates who maintain family ties during incarceration have lower rates of recidivism than inmates who do not.

The legislature further finds that approximately 75% of incarcerated women are parents and over 80,000 minor children have a parent incarcerated in a state prison.

The legislature further finds that an estimated 8 in 10 women in state prison have experienced severe abuse as children and an estimated 9 in 10 have endured physical or sexual violence in their lifetimes.

The legislature further finds that as of 2010, more than 42% of women in New York's prisons had been diagnosed with a serious mental illness and proximity to supporting family and friends has a direct link to recovery.

The legislature further finds that nearly 54% of women prisoners do not have a high school diploma and 35% read at an eighth grade level or below and need assistance in maintaining connections with their families once incarcerated.

The legislature further finds that the department of corrections and community supervision should consider proximity to minor children among the key criteria of security and health and program needs when determin-

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

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ing prison assignments and transfers of mothers, and should support increased access of children to their incarcerated mothers through the use of technology and programs currently available within the department.

The legislature therefore declares that there is a need to develop classification criteria that would place female inmates in proximity to their family members and home communities, and in particular for those inmates who are mothers of minor children in the appropriate correctional facility located closest to those children provided such placement is otherwise appropriate and suitable, and would facilitate increased contact between such female inmate and her child or children.

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

§ 72-c. Pilot project for the placement of female inmates close to home. 1. The commissioner shall establish a pilot program at a designated correctional facility for the purpose of housing female inmates who are mothers of minor children in the correctional facility which is located in closest proximity to the primary place of residence of any such inmate's minor child or children under eighteen years of age, provided that such placement is otherwise suitable and appropriate pursuant to the regulations of the department and would facilitate increased contact between such inmate and her child or children. For purposes of this pilot program, there shall be a maximum of two hundred, but no less than one hundred female inmates, who on a voluntary basis request placement in the pilot program and who are mothers of minor children. In selecting such inmates the department shall consult with the office of children and family services and the local district of social services located in the county where such inmate's child resides to determine if any reasons exist, such as no visitation order, that may prevent the inmate from participating in the pilot program. If the inmate's child and/or family is subject to the purview of the office of children and family services or a local social services district, the department shall consult with the assigned agency to determine whether the child and/or family is suitable for participation in the pilot program, and, if so, collaborate with such agency to obtain information relating to such child and/or family as shall be necessary to determine the effectiveness of the pilot program.

2. The commissioner, in consultation with appropriate community organizations, shall submit within one year of the effective date of this section and annually thereafter a report to the governor, the temporary president of the senate and the speaker of the assembly on the effectiveness of this pilot project. Such reports shall include an analysis of the impact on the inmate, including factors such as institutional adjustment, behavior infractions, and program participation, among related relevant factors, and on her children and family participants. The reports shall also include analysis of factors such as frequency of visits, reports from caregivers about children's connectedness to their incarcerated mothers, children's emotional well-being and behavior in the home, and other relevant factors as included in the caregiver's reports. For child welfare cases, in addition to the above factors, progress toward permanency goals, mother's participation in case planning, and other relevant factors shall be noted. In cases where an inmate mother's release is imminent, as determined by the commissioner, the report shall examine the level of support received and provided by the inmate's family through family involvement and the attachment between a returning mother and her children upon reunification. The

reports shall also include any recommendations for additional legislative enactments that may be needed or required, to improve, enhance and subsequently expand the program to other correctional facilities as determined to be appropriate by the commissioner.

3. No person shall have the right to demand or require participation in the pilot project authorized by this section. The commissioner may revoke at any time participation in such project for any serious disciplinary infraction committed by the inmate or for any failure to continue to participate successfully in any assigned work and treatment program after placement in such pilot program.

4. An eligibility preference shall be granted for child welfare cases. Admission shall be granted on a rolling basis and priority shall be given to inmates who were primary caregivers, although all inmate mothers shall be considered. The families of inmates shall submit demonstrated proof that they will visit the inmate if she lives closer, and the inmate shall request that such family members submit letters. Other relevant factors shall be taken into consideration, including but not limited to, whether an inmate's family member has an undue hardship that would affect the person's ability to visit the inmate. Such hardship shall include, but not be limited to, a physical disability or serious illness that inhibits travel, or whether they would not be able to reasonably visit the inmate because they would be unable to visit by public transportation and cannot afford or use a motor vehicle. Any action by the commissioner pursuant to this section shall be deemed a judicial function and shall not be reviewable if done in accordance with law.

5. Inmates shall not be eligible for this program for a variety of factors, as listed in, but not limited to, those enumerated in this section. Inmates who are incarcerated for violating parole or conditional release shall be ineligible for this program. Inmates who were convicted of a sex offense shall be ineligible for this program. Inmates who have committed a crime against a child shall be ineligible for this program. Inmates for whom a closer location would not lead to more visitors shall not be eligible for this program. Inmates who have not had contact with their children in over a year out of their own volition shall not be eligible for this program, unless there is a compelling reason for not having had contact with their children. The commissioner is empowered to grant preference to more involved inmate mothers, as determined by the amount of contact that the children have with their mother, should the commissioner determine to do so. Mental health issues shall not be an issue of ineligibility with regard to this program, unless there is a compelling reason to do so.

§ 4. This act shall take effect six months after it shall have become a law and shall expire 3 years after it shall take effect when upon such date the provisions of this act shall be deemed repealed. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made on or before such date.