

# 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:

1 Section 1. Short title. This act shall be known and may be cited as  
2 the "pilot project for the placement of female inmates close to home".  
3 § 2. Legislative intent. The legislature hereby finds and declares  
4 that research shows female inmates who maintain family ties during  
5 incarceration have lower rates of recidivism than inmates who do not.  
6 The legislature further finds that approximately 75% of incarcerated  
7 women are parents and over 80,000 minor children have a parent incarcer-  
8 ated in a state prison.  
9 The legislature further finds that an estimated 8 in 10 women in state  
10 prison have experienced severe abuse as children and an estimated 9 in  
11 10 have endured physical or sexual violence in their lifetimes.  
12 The legislature further finds that as of 2010, more than 42% of women  
13 in New York's prisons had been diagnosed with a serious mental illness  
14 and proximity to supporting family and friends has a direct link to  
15 recovery.  
16 The legislature further finds that nearly 54% of women prisoners do  
17 not have a high school diploma and 35% read at an eighth grade level or  
18 below and need assistance in maintaining connections with their families  
19 once incarcerated.  
20 The legislature further finds that the department of corrections and  
21 community supervision should consider proximity to minor children among  
22 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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1 ing prison assignments and transfers of mothers, and should support  
2 increased access of children to their incarcerated mothers through the  
3 use of technology and programs currently available within the depart-  
4 ment.

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

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

14 § 72-c. Pilot project for the placement of female inmates close to  
15 home. 1. The commissioner shall establish a pilot program at a desig-  
16 ned correctional facility for the purpose of housing female inmates  
17 who are mothers of minor children in the correctional facility which is  
18 located in closest proximity to the primary place of residence of any  
19 such inmate's minor child or children under eighteen years of age,  
20 provided that such placement is otherwise suitable and appropriate  
21 pursuant to the regulations of the department and would facilitate  
22 increased contact between such inmate and her child or children. For  
23 purposes of this pilot program, there shall be a maximum of two hundred,  
24 but no less than one hundred female inmates, who on a voluntary basis  
25 request placement in the pilot program and who are mothers of minor  
26 children. In selecting such inmates the department shall consult with  
27 the office of children and family services and the local district of  
28 social services located in the county where such inmate's child resides  
29 to determine if any reasons exist, such as no visitation order, that may  
30 prevent the inmate from participating in the pilot program. If the  
31 inmate's child and/or family is subject to the purview of the office of  
32 children and family services or a local social services district, the  
33 department shall consult with the assigned agency to determine whether  
34 the child and/or family is suitable for participation in the pilot  
35 program, and, if so, collaborate with such agency to obtain information  
36 relating to such child and/or family as shall be necessary to determine  
37 the effectiveness of the pilot program.

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

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

5 3. No person shall have the right to demand or require participation  
6 in the pilot project authorized by this section. The commissioner may  
7 revoke at any time participation in such project for any serious disci-  
8 plinary infraction committed by the inmate or for any failure to contin-  
9 ue to participate successfully in any assigned work and treatment  
10 program after placement in such pilot program.

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

27 5. Inmates shall not be eligible for this program for a variety of  
28 factors, as listed in, but not limited to, those enumerated in this  
29 section. Inmates who are incarcerated for violating parole or condi-  
30 tional release shall be ineligible for this program. Inmates who were  
31 convicted of a sex offense shall be ineligible for this program. Inmates  
32 who have committed a crime against a child shall be ineligible for this  
33 program. Inmates for whom a closer location would not lead to more visi-  
34 tors shall not be eligible for this program. Inmates who have not had  
35 contact with their children in over a year out of their own volition  
36 shall not be eligible for this program, unless there is a compelling  
37 reason for not having had contact with their children. The commissioner  
38 is empowered to grant preference to more involved inmate mothers, as  
39 determined by the amount of contact that the children have with their  
40 mother, should the commissioner determine to do so. Mental health  
41 issues shall not be an issue of ineligibility with regard to this  
42 program, unless there is a compelling reason to do so.

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