

# STATE OF NEW YORK

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5701

2017-2018 Regular Sessions

## IN SENATE

April 26, 2017

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Introduced by Sen. HAMILTON -- 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 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 the department of corrections and  
7 community supervision should consider proximity to minor children among  
8 the key criteria of security and health and program needs when determin-  
9 ing prison assignments and transfers of mothers, and should support  
10 increased access of children to their incarcerated mothers through the  
11 use of technology and programs currently available within the depart-  
12 ment.

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

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

22 § 72-c. Pilot project for the placement of female inmates close to  
23 home. 1. The commissioner shall establish a pilot program at a desig-

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

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1 nated correctional facility for the purpose of housing female inmates  
2 who are mothers of minor children in the correctional facility which is  
3 located in closest proximity to the primary place of residence of any  
4 such inmate's minor child or children under eighteen years of age,  
5 provided that such placement is otherwise suitable and appropriate  
6 pursuant to the regulations of the department and would facilitate  
7 increased contact between such inmate and her child or children. For  
8 purposes of this pilot program, there shall be a maximum of two hundred,  
9 but no less than one hundred female inmates, who on a voluntary basis  
10 request placement in the pilot program and who are mothers of minor  
11 children. In selecting such inmates the department shall consult with  
12 the office of children and family services and the local district of  
13 social services located in the county where such inmate's child resides  
14 to determine if any reasons exist, such as no visitation order, that may  
15 prevent the inmate from participating in the pilot program. If the  
16 inmate's child and/or family is subject to the purview of the office of  
17 children and family services or a local social services district, the  
18 department shall consult with the assigned agency to determine whether  
19 the child and/or family is suitable for participation in the pilot  
20 program, and, if so, collaborate with such agency to obtain information  
21 relating to such child and/or family as shall be necessary to determine  
22 the effectiveness of the pilot program.

23 2. The commissioner, in consultation with appropriate community organ-  
24 izations, shall submit within one year of the effective date of this  
25 section and annually thereafter a report to the governor, the temporary  
26 president of the senate and the speaker of the assembly on the effec-  
27 tiveness of this pilot project. Such reports shall include an analysis  
28 of the impact on the inmate, including factors such as institutional  
29 adjustment, behavior infractions, and program participation, among  
30 related relevant factors, and on her children and family participants.  
31 The reports shall also include analysis of factors such as frequency of  
32 visits, reports from caregivers about children's connectedness to their  
33 incarcerated mothers, children's emotional well-being and behavior in  
34 the home, and other relevant factors as included in the caregiver's  
35 reports. For child welfare cases, in addition to the above factors,  
36 progress toward permanency goals, mother's participation in case plan-  
37 ning, and other relevant factors shall be noted. In cases where an  
38 inmate mother's release is imminent, as determined by the commissioner,  
39 the report shall examine the level of support received and provided by  
40 the inmate's family through family involvement and the attachment  
41 between a returning mother and her children upon reunification. The  
42 reports shall also include such impact on institutional safety and  
43 performance and any recommendations for additional legislative enact-  
44 ments that may be needed or required, to improve, enhance and subse-  
45 quently expand the program to other correctional facilities as deter-  
46 mined to be appropriate by the commissioner. In compiling such reports,  
47 the commissioner may establish and utilize a control group and, if he or  
48 she fails to do so, the commissioner shall include an explanation as to  
49 why a control group was not used.

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

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

17    5. Inmates shall not be eligible for this program for a variety of  
18    factors, as listed in, but not limited to, those enumerated in this  
19    section. Inmates who are incarcerated for violating parole or condi-  
20    tional release shall be ineligible for this program. Inmates who were  
21    convicted of a sex offense shall be ineligible for this program. Inmates  
22    who have committed a crime against a child shall be ineligible for this  
23    program. Inmates for whom a closer location would not lead to more visi-  
24    tors shall not be eligible for this program. Inmates who have not had  
25    contact with their children in over a year out of their own volition  
26    shall not be eligible for this program, unless there is a compelling  
27    reason for not having had contact with their children. The commissioner  
28    is empowered to grant preference to more involved inmate mothers, as  
29    determined by the amount of contact that the children have with their  
30    mother, should the commissioner determine to do so. Inmates who would  
31    ordinarily be sent to a stricter security level prison shall not, unless  
32    compelling reasons shall suggest otherwise, be sent to a lighter securi-  
33    ty prison because of proximity on the basis of this program. Mental  
34    health issues shall not be an issue of ineligibility with regard to this  
35    program, unless there is a compelling reason to do so.

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