

# STATE OF NEW YORK

7757--A

## IN SENATE

February 20, 2018

Introduced by Sen. RIVERA -- 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 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 § 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  
19 located closest to those children provided such placement is otherwise  
20 appropriate and suitable, and would facilitate increased contact  
21 between such inmate and his or her child or children.

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

24 § 72-c. Pilot project for the placement of inmates close to home. 1.  
25 The commissioner shall establish a pilot program for the purpose of  
26 housing inmates who are parents of minor children in the correctional  
27 facility which is located in closest proximity to the primary place of  
28 residence of any such inmate's minor child or children under eighteen

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

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1 years of age, provided that such placement is otherwise suitable and  
2 appropriate pursuant to the regulations of the department and would  
3 facilitate increased contact between such inmate and his or her child or  
4 children. For purposes of this pilot program, inmates who are parents of  
5 minor children on a voluntary basis, would request placement in the  
6 pilot program. In selecting such inmates the department shall consult  
7 with the office of children and family services and the local district  
8 of social services located in the county where such inmate's child  
9 resides to determine if any reasons exist, such as no visitation order,  
10 that may prevent the inmate from participating in the pilot program.

11 2. The commissioner, in consultation with appropriate community organ-  
12 izations, shall submit within one year of the effective date of this  
13 section and annually thereafter a report to the governor, the temporary  
14 president of the senate and the speaker of the assembly on the effec-  
15 tiveness of this pilot project. Such reports shall include an analysis  
16 of the impact on the inmate, including factors such as institutional  
17 adjustment, behavior infractions, and program participation, among  
18 related relevant factors. The reports shall also include analysis of  
19 factors such as frequency of visits, barriers to visitation, logistical  
20 challenges and cost-savings to the department. The report shall further  
21 include any recommendations for additional legislative enactments that  
22 may be needed or required, to improve, enhance and subsequently expand  
23 the program as determined to be appropriate by the commissioner. The  
24 report following the third year of the pilot program shall include a  
25 plan for expansion and eventual incorporation of proximity into place-  
26 ment decisions for all inmate parents of minor children.

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

33 4. An eligibility preference shall be granted for child welfare and  
34 foster care cases as parents are at risk of losing their parental  
35 rights. Admission shall be granted on a rolling basis and priority  
36 shall be given to inmates who were primary caregivers, although all  
37 inmate parents of minor children shall be considered. The department  
38 shall verify that the minor children of inmates participating in such  
39 pilot program will be able to come to the facility for periodic visita-  
40 tion. Any action by the commissioner pursuant to this section shall be  
41 deemed a judicial function and shall not be reviewable if done in  
42 accordance with law. Inmates shall not be eligible for this program for  
43 a variety of factors, as listed in, but not limited to, those enumerated  
44 in this section. Inmates who are incarcerated for violating parole or  
45 conditional release shall be ineligible for this pilot program. Inmates  
46 who have committed a crime against a child shall be ineligible for this  
47 pilot program. Inmates for whom a closer location would not lead to more  
48 visitors shall not be eligible for this program. Mental health issues  
49 shall not be an issue of ineligibility with regard to this program,  
50 unless there is a compelling reason to do so.

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