STATE OF NEW YORK

974

2019-2020 Regular Sessions

IN SENATE

January 9, 2019

Introduced by Sen. YOUNG -- 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 executive law, in relation to temporary detention of persons whose presumptive release, parole, conditional release or post-release supervision alleged to have violated the terms of their release

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subparagraph (i) of paragraph (a) of subdivision 3 of section 259-i of the executive law, as amended by chapter 545 of the laws of 2015, is amended to read as follows:

(i) If the parole officer having charge of a presumptively released, paroled or conditionally released person or a person released to post-release supervision or a person received under the uniform act for out-of-state parolee supervision shall have reasonable cause to believe that such person has lapsed into criminal ways or company, or has violated one or more conditions of his presumptive release, parole, conditional release or post-release supervision, such parole officer shall report such fact to a member of the board, or to any officer of the department designated by the board, and thereupon a warrant may be issued for the retaking of such person and for his temporary detention in accordance with the rules of the board unless such person has been determined to be currently unfit to proceed to trial or is currently subject to a temporary or final order of observation pursuant to article seven hundred thirty of the criminal procedure law, in which case no warrant shall be issued. The retaking and detention of any such person may be further regulated by rules and regulations of the department not inconsistent with this article. A warrant issued pursuant to this section shall constitute sufficient authority to the superintendent or other person in charge of any jail, penitentiary, lockup or detention pen to whom it is

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

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delivered to hold in temporary detention the person named therein**, and the period of temporary detention in the custody of such local correctional facility shall not exceed seventy-two hours and thereafter the person shall be transferred to the custody of the department to be held in temporary custody**; except that a warrant issued with respect to a person who has been released on medical parole pursuant to section two hundred fifty-nine-r of this article and whose parole is being revoked pursuant to paragraph (h) of subdivision four of such section shall constitute authority for **and require** the immediate placement of the parolee only into imprisonment in the custody of the department to hold in temporary detention. A warrant issued pursuant to this section shall also constitute sufficient authority to the person in charge of a drug treatment campus, as defined in subdivision twenty of section two of the correction law, to hold the person named therein, in accordance with the procedural requirements of this section, for a period of at least ninety days to complete an intensive drug treatment program mandated by the board as an alternative to presumptive release or parole or conditional release revocation, or the revocation of post-release supervision, and shall also constitute sufficient authority for return of the person named therein to local custody to hold in temporary detention for further revocation proceedings in the event said person does not successfully complete the intensive drug treatment program. The board's rules shall provide for cancellation of delinquency and restoration to supervision upon the successful completion of the program.

§ 2. This act shall take effect on the one hundred twentieth day after it shall have become a law; provided, that, effective immediately, any rules and regulations necessary to implement the provisions of this act on its effective date are authorized and directed to be promulgated, amended and/or repealed on or before such date.