STATE OF NEW YORK

5090

2023-2024 Regular Sessions

IN ASSEMBLY

March 2, 2023

Introduced by M. of A. GUNTHER -- read once and referred to the Committee on Codes

AN ACT to amend the criminal procedure law and the family court act, in relation to permitting the detention of juveniles with adults in certain circumstances

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

Section 1. Section 510.15 of the criminal procedure law is amended by adding a new subdivision 3 to read as follows:

3. Notwithstanding any provision of law to the contrary, in the event there is no capacity at the closest facility certified by the office of children and family services in conjunction with the state commission of correction as a specialized secure juvenile detention facility to the sheriff's department, as determined by measuring the direct distance between such facility and such sheriff's department, then the court shall, in the interest of justice, direct that the principal be lodged in a facility approved by the office of children and family services in conjunction with the state commission of correction with one hundred percent sight and sound separation from the adult population. Should there be no facilities within a reasonable distance that have one hundred percent sight and sound separation from the adult population, then the court shall, in the interest of justice, direct the principal be lodged in an adult facility until such bed is made available at such facility or the closest specialized secure juvenile detention facility as determined by measuring the direct distance between such facility and such sheriff's department. For the purposes of this section, "reasonable distance" shall mean within fifty miles.

§ 2. Section 304.1 of the family court act is amended by adding a new subdivision 5 to read as follows:

5. A detention facility, as certified by this section, that receives authorization from the office of children and family services as an

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

LBD07039-01-3

alternative jail placement for an adolescent offender shall be granted right of first refusal in circumstances in which there are no placements available at the closest specialized secure juvenile detention facility, as determined by measuring the direct distance to any such facilities, including a forty-eight-hour holdover facility.

§ 3. This act shall take effect immediately.