

STATE OF NEW YORK

6235

2023-2024 Regular Sessions

IN ASSEMBLY

April 3, 2023

Introduced by M. of A. WEPRIN, HYNDMAN -- Multi-Sponsored by -- M. of A. COOK -- read once and referred to the Committee on Correction

AN ACT to amend the correction law, in relation to establishing the pilot project for the placement of incarcerated individuals 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 incarcerated individuals close
3 to home".
4 § 2. Legislative intent. The legislature hereby finds and declares
5 that research shows incarcerated individuals who maintain family ties
6 during incarceration have lower rates of recidivism than incarcerated
7 individuals who do not. Further, most incarcerated individuals are
8 parents, and more than 80,000 children in the state of New York have a
9 parent incarcerated in the state prison system.
10 The legislature further finds that the department of corrections and
11 community supervision should consider proximity to minor children among
12 the key criteria of security and health and program needs when determin-
13 ing prison assignments and transfers of parents, and should support
14 increased access of children to their incarcerated parents through the
15 use of technology and programs currently available within the depart-
16 ment.
17 The legislature therefore declares that there is a need to develop
18 classification criteria that would place incarcerated individuals in
19 proximity to their family members and home communities, and in partic-
20 ular for those incarcerated individuals who are parents of minor chil-
21 dren in the appropriate correctional facility located closest to those
22 children provided such placement is otherwise appropriate and suitable,

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

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1 and would facilitate increased contact between such incarcerated indi-
2 vidual and his or her child or children.

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

5 § 72-d. Pilot project for the placement of incarcerated individuals
6 close to home. 1. The commissioner shall establish a pilot program for
7 the purpose of housing incarcerated individuals who are parents of minor
8 children in the correctional facility which is located in closest prox-
9 imity to the primary place of residence of any such incarcerated indi-
10 viduals minor child or children under eighteen years of age, provided
11 that such placement is otherwise suitable and appropriate pursuant to
12 the regulations of the department and would facilitate increased contact
13 between such incarcerated individual and his or her child or children.
14 For purposes of this pilot program, incarcerated individuals who are
15 parents of minor children on a voluntary basis, would request placement
16 in the pilot program. In selecting such incarcerated individual the
17 department shall consult with the office of children and family services
18 and the local district of social services located in the county where
19 such incarcerated individual's child resides to determine if any reasons
20 exist, such as no visitation order, that may prevent the incarcerated
21 individual from participating in the pilot program.

22 2. The commissioner, in consultation with appropriate community organ-
23 izations, shall submit within one year of the effective date of this
24 section and annually thereafter a report to the governor, the temporary
25 president of the senate and the speaker of the assembly on the effec-
26 tiveness of this pilot project. Such reports shall include an analysis
27 of the impact on the incarcerated individual, including factors such as
28 institutional adjustment, behavior infractions, and program partic-
29 ipation, among related relevant factors. The reports shall also include
30 analysis of factors such as frequency of visits, barriers to visitation,
31 logistical challenges and cost-savings to the department. The report
32 shall further include any recommendations for additional legislative
33 enactments that may be needed or required, to improve, enhance and
34 subsequently expand the program as determined to be appropriate by the
35 commissioner. The report following the third year of the pilot program
36 shall include a plan for expansion and eventual incorporation of proxim-
37 ity into placement decisions for all incarcerated individual parents of
38 minor children.

39 3. No person shall have the right to demand or require participation
40 in the pilot project authorized by this section. The commissioner may
41 revoke at any time participation in such project for any serious disci-
42 plinary infraction committed by the incarcerated individual or for any
43 failure to continue to participate successfully in any assigned work and
44 treatment program after placement in such pilot program.

45 4. An eligibility preference shall be granted for child welfare and
46 foster care cases as parents are at risk of losing their parental
47 rights. Admission shall be granted on a rolling basis and priority
48 shall be given to incarcerated individuals who were primary caregivers,
49 although all incarcerated individual parents of minor children shall be
50 considered. The department shall verify that the minor children of
51 incarcerated individuals participating in such pilot program will be
52 able to come to the facility for periodic visitation. Any action by the
53 commissioner pursuant to this section shall be deemed a judicial func-
54 tion and shall not be reviewable if done in accordance with law. Incar-
55 cerated individuals shall not be eligible for this program for a variety
56 of factors, as listed in, but not limited to, those enumerated in this

1 section. Incarcerated individuals who are incarcerated for violating
2 parole or conditional release shall be ineligible for this pilot
3 program. Incarcerated individuals who have committed a crime against a
4 child shall be ineligible for this pilot program. Incarcerated individ-
5 uals for whom a closer location would not lead to more visitors shall
6 not be eligible for this program. Mental health issues shall not be an
7 issue of ineligibility with regard to this program, unless there is a
8 compelling reason to do so.

9 § 4. This act shall take effect six months after it shall have become
10 a law and shall expire 3 years after it shall take effect when upon such
11 date the provisions of this act shall be deemed repealed. Effective
12 immediately, the addition, amendment and/or repeal of any rule or regu-
13 lation necessary for the implementation of this act on its effective
14 date are authorized to be made and completed on or before such effective
15 date.