STATE OF NEW YORK

6485

2023-2024 Regular Sessions

IN ASSEMBLY

April 11, 2023

Introduced by M. of A. WEPRIN, CRUZ, EPSTEIN, L. ROSENTHAL, SAYEGH, AUBRY, SIMON -- read once and referred to the Committee on Correction

AN ACT to amend the correction law, in relation to establishing the family reunion program

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

Section 1. The correction law is amended by adding a new section 138-b to read as follows:

§ 138-b. Family reunion program. 1. The department shall create a family reunion program to provide eligible incarcerated individuals and their families the opportunity to meet for an extended period of time in privacy in a residential setting. Such program shall be available at every general confinement maximum-security state correctional facility and at any medium-security state correctional facility with a general confinement incarcerated individual population capacity of over eight hundred beds. Program facilities and administration may be shared among correctional facilities. Smaller medium-security facilities located near maximum-security facilities or large medium-security facilities may be permitted to participate in the program at such facilities. Family reunion programs shall contain enough housing units to accommodate family reunion program visits at least one time every four months for eligible incarcerated individuals.

2. Incarcerated individuals who maintain a good disciplinary record, who comply with departmental program requirements and who do not pose a current danger pursuant to subdivision four of this section shall be eligible to apply for participation in the family reunion program. A good disciplinary record shall mean the incarcerated individual has not resided in a segregated confinement unit or in keep lock for a sanction for misbehavior for over fifteen days within the last six months prior to the visit. An incarcerated individual who has not maintained a good disciplinary record may reapply for family reunion program participation six months after being released from segregated confinement or keep lock. Incarcerated individuals who are denied participation in the program may appeal to the commissioner. Once an incarcerated individual

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

LBD01076-01-3

has been approved for participation in the family reunion program, he or she shall remain eligible to participate unless such eligibility is taken away for bad conduct, failure to comply with departmental program requirements or because he or she has been determined to pose a current danger to self or others pursuant to subdivision four of this section. If an incarcerated individual is transferred to a new facility, his or her eligibility for the family reunion program will continue and such incarcerated individual shall be eligible to participate in the family reunion program at such new facility thirty days after arrival.

3. (a) Applications for participation in the family reunion program may be made for the following family members who have established a pattern of visitation, as defined by three visits in the last twelve months unless such family member lives out of state, is disabled, elderly or a minor, or lives more than three hundred miles from the facility where the incarcerated individual is housed. In such cases, the visitor shall be allowed to participate in the family reunion program without establishing a recent pattern of visitation if he or she is otherwise eligible. The department shall provide reasonable accommodations for disabled visitors and incarcerated individuals upon request. The number of visitors at any one time shall be limited to the occupancy capacity of the family reunion program unit, as determined by the fire and safety official with jurisdiction over such units. The following family members may be eligible for participation in the program:

(i) legal spouses, including a spouse who marries an incarcerated individual during the term of his or her incarceration;

(ii) children or stepchildren of the incarcerated individual, who may be accompanied by their non-incarcerated parent;

(iii) parents or stepparents of the incarcerated individual;

(iv) grandparents;

(v) siblings;

(vi) grandchildren of the incarcerated individual; and

(vii) with special approval from the facility superintendent, aunts, uncles, cousins, foster parents and in-laws of the incarcerated individual, with proof of relationship.

(b) An eligible visitor may lose eligibility if he or she is in violation of a serious rule or regulation of the program, as determined by the commissioner. Any visitor who loses his or her eligibility to participate in the program shall be granted due process and shall be eligible to participate in the program after a reasonable waiting period unless he or she has been convicted of a crime related to his or her participation in the program.

4. Incarcerated individuals who pose a current danger to themselves or others may be denied family reunion program visitation. Such denial must be made on a case-by-case basis at the time visitation is sought and shall be made in writing, with a copy to the incarcerated individual and to the proposed visitor. When such danger has passed, the incarcerated individual shall again be eligible for participation in the program unless he or she has failed to maintain a good disciplinary record or to comply with the department's program requirements. Incarcerated individuals who test positive for human immunodeficiency virus or hepatitis B or C, may participate in the program with informed consent of the visitor or visitors.

§ 2. This act shall take effect one year after it shall have become a law.