STATE OF NEW YORK

3174

2023-2024 Regular Sessions

IN SENATE

January 30, 2023

Introduced by Sen. CLEARE -- 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 correction law, in relation to authorizing the transfer of pregnant and postpartum incarcerated individuals to residential treatment facilities

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 72-d to read as follows:

§ 72-d. Pregnant and postpartum incarcerated individuals. 1. The commissioner may authorize the transfer to a residential treatment facility established under section seventy-three of this article:

(a) for up to one year of postpartum, an incarcerated individual who gave birth within eight months of the date of commitment to a correctional facility; and

(b) for the duration of the pregnancy and up to one year postpartum, an incarcerated individual who is pregnant.

2. The commissioner may conditionally transfer an incarcerated individual under subdivision one of this section to a residential treatment facility for the purpose of participation in prenatal or postnatal care programming and to promote mother-child bonding in addition to other programming as established by the commissioner, including but not limited to evidence-based parenting skills programming; working at paid employment; seeking employment; or participating in vocational training, an education program, or chemical dependency or mental health treatment services.

3. The commissioner shall develop policy and criteria and promulgate any rules and/or regulations necessary to implement this section according to public safety and generally accepted correctional practice.

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

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4. On or before the first of April each year, the commissioner shall report to the temporary president of the senate and the speaker of the assembly on the number of incarcerated individuals transferred to residential treatment facilities pursuant to this section and the duration of such transfers for the prior calendar year.

§ 2. Subdivision 1 of section 73 of the correction law, as amended by chapter 322 of the laws of 2021, is amended to read as follows:

1. The commissioner may transfer any incarcerated individual of a correctional facility who is eligible for community supervision or who will become eligible for community supervision within six months after the date of transfer [~~or~~], who has one year or less remaining to be served under his or her sentence**, or who is a pregnant or postpartum incarcerated individual authorized under section seventy-two-d of this article** to a residential treatment facility and such person may be allowed to go outside the facility during reasonable and necessary hours to engage in any activity reasonably related to his or her rehabilitation and in accordance with the program established for him or her. While outside the facility he or she shall be at all times in the custody of the department and under its supervision.

§ 3. This act shall take effect immediately.