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:

Section 1. Short title. This act shall be known and may be cited as the "pilot project for the placement of incarcerated individuals close to home".

§ 2. Legislative intent. The legislature hereby finds and declares that research shows incarcerated individuals who maintain family ties during incarceration have lower rates of recidivism than incarcerated individuals who do not. Further, most incarcerated individuals are parents, and more than 80,000 children in the state of New York have a parent incarcerated in the state prison system.

The legislature further finds that the department of corrections and community supervision should consider proximity to minor children among the key criteria of security and health and program needs when determining prison assignments and transfers of parents, and should support increased access of children to their incarcerated parents through the use of technology and programs currently available within the department.

The legislature therefore declares that there is a need to develop classification criteria that would place incarcerated individuals in proximity to their family members and home communities, and in particular for those incarcerated individuals who are parents of minor children in the appropriate correctional facility located closest to those 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.

LBD09906-01-3

and would facilitate increased contact between such incarcerated individual and his or her child or children.

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

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

2. The commissioner, in consultation with appropriate community organizations, shall submit within one year of the effective date of this section and annually thereafter a report to the governor, the temporary president of the senate and the speaker of the assembly on the effectiveness of this pilot project. Such reports shall include an analysis of the impact on the incarcerated individual, including factors such as institutional adjustment, behavior infractions, and program participation, among related relevant factors. The reports shall also include analysis of factors such as frequency of visits, barriers to visitation, logistical challenges and cost-savings to the department. The report shall further include any recommendations for additional legislative enactments that may be needed or required, to improve, enhance and subsequently expand the program as determined to be appropriate by the commissioner. The report following the third year of the pilot program shall include a plan for expansion and eventual incorporation of proximity into placement decisions for all incarcerated individual parents of minor children.

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

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

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

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