STATE OF NEW YORK

7585

2023-2024 Regular Sessions

IN ASSEMBLY

May 25, 2023

Introduced by M. of A. KELLES -- read once and referred to the Committee on Correction

AN ACT to amend the correction law, in relation to requiring conditional release of pregnant and postpartum individuals and prohibiting the incarceration of pregnant and postpartum individuals

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

Section 1. Section 611 of the correction law is amended by adding two new subdivisions 5 and 6 to read as follows:

5. Notwithstanding any other provision of this section to the contrary:

(a) In the furtherance of public interest and the welfare of children, the commissioner shall release:

i. for up to one year postpartum, an individual who gave birth within nine months of the date of commitment; and

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

(b) The commissioner shall conditionally release an incarcerated individual under paragraph (a) of this subdivision to community-based programming for the purpose of participation in prenatal or postnatal care programming and to promote birthing parent-child bonding in addition to other programming requirements as established by the commissioner, including: evidence-based parenting skills programming; working at paid employment; seeking employment; or participating in vocational training, an educational program, domestic violence recovery services, or chemical dependency or mental health treatment services.

(c) The department shall develop policy and criteria to implement this subdivision.

(d) By April first of each year, the commissioner shall report to the chairs and ranking minority members of the committees of the senate and assembly with jurisdiction over corrections and with jurisdiction over

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

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issues concerning women and children regarding the number of individuals released and the duration of the release pursuant to this subdivision for the prior calendar year.

6. Notwithstanding any other provision of this section to the contrary:

(a) In the furtherance of public interest and the welfare of children, the commissioner shall prohibit the incarceration of:

i. for up to one year postpartum, an individual who gave birth within nine months of the date of commitment; and

ii. for the duration of the pregnancy and up to one year postpartum, an individual who is pregnant who would be subject to incarceration were she not pregnant or postpartum.

(b) The commissioner shall commit an individual under paragraph (a) of this subdivision to community-based programming for the purpose of participation in prenatal or postnatal care programming and to promote birthing parent-child bonding in addition to other programming requirements as established by the commissioner, including: evidence-based parenting skills programming; working at paid employment; seeking employment; or participating in vocational training, an educational program, domestic violence recovery services, or chemical dependency or mental health treatment services.

(c) The department shall develop policy and criteria to implement this subdivision.

(d) By April first of each year, the commissioner shall report to the chairs and ranking minority members of the committees of the senate and assembly with jurisdiction over corrections and with jurisdiction over issues concerning women and children the number of individuals committed to community-based programming under this subdivision and the duration of the community-based programming under this subdivision for the prior calendar year.

§ 2. This act shall take effect immediately.