

STATE OF NEW YORK

4118--B

Cal. No. 682

2007-2008 Regular Sessions

**NYSCOPBA LEGISLATIVE
DEPARTMENT** **IN SENATE**

March 27, 2007

Introduced by Sen. NOZZOLIO -- read twice and ordered printed, and when printed to be committed to the Committee on Crime Victims, Crime and Correction -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading -- again amended and ordered reprinted, retaining its place in the order of third reading

AN ACT to amend the correction law, in relation to custody and supervision of persons in state and local correctional facilities

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

1 Section 1. The correction law is amended by adding two new sections
2 120 and 121 to read as follows:

3 § 120. Custody and supervision of persons in correctional facilities.

4 1. Except as provided in subdivisions two, three and four of this
5 section, the duty of maintaining the custody and supervision of persons
6 detained or confined in a correctional facility as defined in subdivi-
7 sion four of section two of this chapter, including a drug treatment
8 campus as defined in subdivision twenty of section two of this chapter,
9 or a local correctional facility as defined in subdivision sixteen of
10 section two of this chapter shall be performed solely by police officers
11 designated in paragraph (a), (b), (c), (d), (e), (g), (j) or (m) of
12 subdivision thirty-four of section 1.20 of the criminal procedure law or
13 peace officers designated in subdivision twenty-five of section 2.10 of
14 the criminal procedure law, which persons, whether employed full-time or
15 part-time, shall be in the competitive, non-competitive or exempt class
16 of the civil service of New York state as determined by state law or by
17 the state or applicable local civil service commission.

18 2. Nothing in this section shall limit in any way the authority of the
19 commissioner, or any county or the city of New York, to enter into any
20 contract authorized by subdivision eighteen of section two, section

1 seventy-two-a, section seventy-three, section ninety-five, article
2 five-A or article twenty-six of this chapter, or to limit the responsi-
3 bility of the state division of parole to supervise inmates or parolees
4 while away from an institution pursuant to section seventy-two-a,
5 section seventy-three or article twenty-six of this chapter or while
6 confined at a drug treatment campus as defined in subdivision twenty of
7 section two of this chapter.

8 3. Subdivision one of this section shall be inapplicable to any person
9 who is or may be employed in a correctional facility as defined in
10 subdivision four of section two of this chapter or a local correctional
11 facility as defined in subdivision sixteen of section two of this chap-
12 ter or who contracts or may contract to provide services at such a
13 correctional facility, who, in either case, is (a) not a correction
14 officer or deputy sheriff, and (b) does not have, as their primary job
15 responsibility, the duty of maintaining the supervision of persons
16 detained or confined in a correctional facility but who provides such
17 supervision as a secondary, ancillary or incidental part of their prima-
18 ry employment responsibilities. An employee who meets the criteria
19 provided by paragraphs (a) and (b) of this subdivision may include, but
20 not be limited to, food service, janitorial or maintenance staff of such
21 a correctional facility or persons who provide health care, substance
22 abuse treatment, counseling, religious, educational or vocational
23 services at such a correctional facility.

24 4. Nothing in this section shall preclude an elected or appointed
25 sheriff, the commissioner of correction of the city of New York, the
26 commissioner of the Westchester county department of correction, or any
27 other municipal official in the unclassified service, as determined by
28 state law or by the state or applicable local civil service commission,
29 from maintaining the custody and supervision of persons detained or
30 confined in a local correctional facility as defined in subdivision
31 sixteen of section two of this chapter.

32 § 121. Private ownership or operation of correctional facilities.
33 Except as otherwise provided in subdivisions two, three and four of
34 section one hundred twenty of this article or in federal law, the
35 private operation or management of a correctional facility as defined in
36 subdivision four of section two of this chapter or a local correctional
37 facility, as defined in subdivision sixteen of section two of this chap-
38 ter, the private ownership or operation of a facility for housing state
39 or local inmates or the private ownership or operation of a facility for
40 the incarceration of other state's inmates is prohibited.

41 § 2. This act shall take effect on the ninetieth day after it shall
42 have become a law.