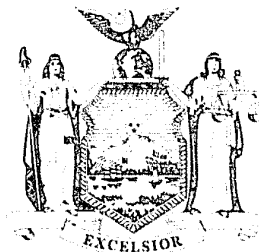


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1994
ANNUAL REPORT
OF THE
SENATE COMMITTEE ON
CRIME VICTIMS, CRIME AND
CORRECTION

Senator Serphin R. Maltese
Chairman



SERPHEIN R. MALTESE
SENATOR, QUEENS COUNTY

CHAIRMAN
CRIME VICTIMS
CRIME AND CORRECTION
COMMITTEES
AGING
ALCOHOLISM AND DRUG ABUSE
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October 27, 1994

Honorable Ralph J. Marino
President Pro Tem and
Majority Leader
New York State Senate
Room 330, Capitol
Albany, New York 12247

Dear Majority Leader Marino:

As Chairman of the Senate Crime Victims, Crime and Correction Committee, I am pleased to submit this report of the Committee's activities during the 1994 Legislative Session.

In addition to considering over 120 bills, the Committee conducted a hearing on work release, co-sponsored the 28th annual inmate art show, considered nine nominations for positions on various state boards and councils and inspected Ogdensburg, Riverview and Downstate Correctional Facilities.

I hope that this report is informative and proves to be useful as a legislative resource in the future.

Sincerely,


SERPHEIN R. MALTESE
Senator, Queens County

SRM:vv



1994 ANNUAL REPORT
OF THE
NEW YORK STATE SENATE
STANDING COMMITTEE ON
CRIME VICTIMS, CRIME AND CORRECTION

Serphin R. Maltese, Chairman

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RAPE AND SEXUAL ASSAULT

Criminal justice experts estimate that a woman is raped every 6 minutes in this country, and that at least 1 in 4 women will experience some form of sexual assault in their adult lives. However, only a small percentage of these types of assaults are ever reported to police, due mainly to the stigma associated with such an attack and the insensitive way in which rape victims have been treated in the past by the criminal justice system, as well as by the media. The Division of Criminal Justice Services' 1992 Crime and Justice Annual Report indicated that there were 5,126 reported forcible rapes during 1992. While New York State experienced an overall decline in violent crime in 1992, forcible rape was the one category that increased during that year (0.8%).

The Senate Republican Study Group on Sex Crimes, chaired by Senate Majority Leader Ralph Marino, issued its second report, Rape and Sexual Assault: Meeting the Crisis; A Comprehensive Strategy to Deter Crimes Involving Rape and Sexual Assault, in February, 1991. The report, noting that rape is one of the least reported and most ineffectively prosecuted violent crimes, made numerous recommendations on ways to deal with the crisis. For the fourth year in a row, the Senate approved 2 omnibus bills: the Rape Victim Services Act of 1994 (S. 3237-A, Passed Senate) and the Sex Offender Reform Act (S. 6380, Passed Senate). In addition, the Legislature enacted a measure during the 1994 Session which will serve to reduce the amount of "victim bashing" that often arises in sex offense cases by not allowing the victim's manner of dress to be used as evidence unless it is determined to be relevant and admissible in the interests of justice (S. 233-A, Chapter 482, L. 1994).

Current case law (People v. Keindl, 68 NY2d 410, 1986) requires child victims of sexual abuse to specify the approximate date of and distinguish between each incident of abuse. Since such child victims are usually abused frequently and regularly over a long period of time, they cannot meet the demands imposed by the Keindl decision. As a result, many serious offenders are not successfully prosecuted. The Senate approved a measure to assist in prosecuting such offenders by creating the new crimes of course of sexual conduct against a child in the first and second degrees and extending the statute of limitations for sex offenses committed against children (S. 3907-C, Passed Senate).

The Senate took further steps to prevent the sexual exploitation of children by criminalizing the possession of child pornography (S. 2372, Passed Senate) and extending the age of consent for a sexual performance by a child from less than 16 years of age to less than 18 years of age (S. 234, Passed Senate). In the wake of recent national tragedies involving the abduction, sexual assault, and murder of innocent children, the Senate also passed a measure to provide for the registration of convicted sex offenders upon reentering the community (S. 6552-A, Passed Senate).

IMPORTANT BILLS

Sex Offender Registration Act

S. 6552-A
Passed Senate

Enacts a new article in the Correction Law called the Sex Offender Registration Act.

Defines "sex offender" as any person who is convicted under the Penal Law of Rape I, II and III; Sodomy I, II and III; Aggravated Sexual Abuse; Use of a Child in a Sexual Performance; Promoting an Obscene Sexual Performance by a Child; and Sexual Performance by Child; a conviction for an offense of the law of another state that is substantially equivalent to any of such sex offenses specified in the New York State Penal Law; or a conviction for a second violation of sexual misconduct, consensual sodomy, and sexual abuse in the third degree. Requires the court to certify that the person is a sex offender upon conviction and to include the certification in the order of commitment. Specifies that convictions that result from or are connected with the same act, or result from offenses committed at the same time, are to be counted as one conviction and any conviction that has been set aside pursuant to law is not a conviction for this purpose.

Mandates that any sex offender register in person with the chief law enforcement officer of the municipality in which he/she resides within 10 days of coming into any county in which he/she resides or is temporarily domiciled, and annually thereafter. States that registration as required by this article is to consist of a statement in writing signed by the person giving the information that is required by the Division of Criminal Justice Services (DCJS). Requires the registering law enforcement agency to forward the statement and any other required information to DCJS within 3 days and DCJS is to enter the information into the appropriate electronic data base. If any person required to register changes his/her residence address, the procedures listed above are to apply. Provides that any person required to register under this article as a result of a conviction of a felony must register annually whenever he/she is not confined to a correctional facility, hospital, or institution and whenever he/she is a resident of this State. States that any person required to register as a result of a conviction for a second violation for sexual misconduct, consensual sodomy, and sexual abuse in the third degree is to be subject to the same annual registration requirements, but only for a period of 10 years following discharge or release. Provides that the statements or any other information required by this article are not open to inspection by the public, or by any person other than a law enforcement officer or other individual as may be authorized by law. Makes it a Class B misdemeanor to permit the unauthorized release of any information required by this article. Provides that any person required to register and who fails to register in the manner and within the time periods provided is guilty of a Class A misdemeanor for the first violation, and guilty of a Class D felony for a second or subsequent violation.

Provides that any sex offender who is discharged, paroled, or released from a correctional facility, local correctional facility, hospital, or institution is to be informed of his/her duty to register within 10 days prior to discharge by the facility in which he/she was confined. Requires the facility to make the person read and sign such form as may be required by DCJS stating that the duty to register and the procedure for registration has been explained. Specifies that the facility is to obtain the address where the person expects to reside upon discharge, parole, or release and is to report the address to DCJS. States that the facility is to give 1 copy of the form to the person and is to send 2 copies to DCJS which is to forward 1 copy to the law enforcement agency having jurisdiction where the person expects to reside upon discharge, parole, or release.

Requires any sex offender who is released on probation or discharged upon payment of a fine to be informed of his/her duty to register by the court in which he/she was convicted prior to such release or discharge. Provides that where the court orders a sex offender released on probation, such order is to include a provision requiring

that such person comply with the requirements of this article. Specifies that where such person violates such provisions, probation may be immediately revoked as provided in the Penal Law. Mandates that the court is to require the person to read and sign such form as may be required by DCJS stating that the duty to register and the procedure for registration has been explained. Requires the court to obtain the address where the person expects to reside upon release and to report the address to DCJS. Sets forth procedures for filing and disseminating copies of such form.

Requires every person who is on parole or probation for a sex offense on the effective date of this article to register with his/her parole or probation officer within 45 days of the effective date. The registration requirements as set forth above are to apply annually thereafter and any person who fails or refuses to so comply is to be subject to the same penalties as those imposed upon a convicted sex offender after the effective date. Makes it the duty of the parole or probation officer to inform and register such individual, who is to then give 1 copy of the form to the person and send 2 copies to DCJS within 3 days, which is to forward 1 copy to the law enforcement agency having jurisdiction where the person expects to reside upon discharge, parole, probation, or release.

Provides that any person required to register may be relieved of any further duty to register upon the granting of a petition for expungement of records granted by the court in which his conviction was entered. Specifies that such petition may be executed no sooner than 10 years from the date of discharge, parole, or release from a correctional facility, hospital, or institution; or 5 years from the date of probation or discharge upon the payment of a fine where a fine is levied. States that such petition, if granted, is not to relieve the petitioner of the duty to register upon conviction of any offense requiring registration in the future.

Authorizes DCJS to establish and maintain an electronic data base of individuals required to register which is to include the offender's name, all aliases, date of birth, sex, race, height, weight, eye color, driver's license number, home address and/or expected place of domicile; a photograph and/or set of fingerprints; a description of the offense for which the individual was convicted, the date of conviction, and the sentence imposed, if applicable; and any other information deemed pertinent by DCJS. Further authorizes DCJS to make the registry available to any regional or national registry of sex offenders for the purpose of sharing information and requires DCJS to accept files from any such registry and to make such files available when requested. Mandates that DCJS is to require that no information included in the registry be made available except in the furtherance of these provisions. Requires DCJS to develop a standardized registration to be made available to the appropriate authorities and to promulgate rules and regulations to implement these provisions. Provides that DCJS is to file a report with the Governor and the Legislature detailing the program, success, and effectiveness of the provisions of this article on or before February 1 in each year, together with any recommendations to further enhance the intent of this article. (Correction Law)

CRIME VICTIMS AND WITNESSES

Thousands of people are injured and killed each year as a result of violent crimes. The Bureau of Justice Statistics' 1992 Criminal Victimization report indicates that 18.8 million people age 12 or older were victimized during that year in crimes involving violence or personal theft. Another 14.8 million household crimes were also committed in 1992. Unfortunately, an estimated 50% of violent crime and 60% of all crime still goes unreported.

The Crime Victims Board (CVB) was established in 1966 to make financial awards to innocent victims or their dependents or survivors, who suffer serious financial hardships due to physical injury, disability, or death resulting from criminal acts. The Senate enacted measures to expand victim's compensation during the 1994 Session to include those who suffer mental or emotional injury as a direct result of a crime (S. 7008-A, Passed Senate) and to pay the unreimbursed counseling costs for all victims and family members of victims of homicide or any other violent felony offense (S. 245-A, Passed Senate).

In 1977, the Legislature enacted a unique law (Chapter 823, L. 1977) to prevent criminals from profiting from the commercial exploitation of their crime stories (the so-called "Son of Sam" law). This innovative piece of legislation was widely copied by jurisdictions across the country. However, on December 10, 1991, the U.S. Supreme Court struck down the "Son of Sam" law as unconstitutional, in violation of the First Amendment, because it "imposes a financial burden on speakers because of the content of their speech" (Simon & Schuster Inc. v. Members of the New York State Crime Victims Board, 112 S.Ct. 501, 1991). The Legislature responded by enacting a measure which would recapture the right of crime victims and their personal representatives to seek recompense from the criminal responsible for their victimization (Chapter 618, L. 1992). Memos in opposition to this legislation were received from Simon & Schuster Inc., the Motion Picture Association, Association of American Publishers, and the New York Civil Liberties Union, who have indicated that there may be more litigation in the future on this issue once a test case becomes available.

ENACTED LEGISLATION

Information for Crime Victims

A. 168-A/S. 5227
Chapter 67

Adds new provisions to the Executive Law regarding information to crime victims relative to the fair treatment standard. Directs the district attorney to provide to the victim, at the earliest time possible, an informational pamphlet detailing the rights of crime victims prepared by the Division of Criminal Justice Services (DCJS) in cooperation with the Crime Victims Board (CVB). Requires that the pamphlet summarize the Fair Treatment Standards for Crime Victims outlined in the Executive Law and include specific information with appropriate statutory references on the following:

- the rights of crime victims to compensation and services;
- the rights of crime victims to routine notification of judicial proceedings relating to their case;

- the rights of crime victims to be protected from intimidation and to have the court, where appropriate, issue protective orders;
- the rights of crime victims to submit, where appropriate, a victim impact statement for the presentence report and the parole hearing;
- the rights of crime victims, where a defendant is being sentenced to a felony, to request the right to make a statement at the time of sentencing; and
- the rights of crime victims to request restitution and have the district attorney present such request to the court and assist the crime victim in the filing and collection of a restitution order in cooperation with the designated agency of the court.

Further requires the pamphlet to provide space for the insertion of the following information:

- the address and phone number of the nearest CVB office;
- the address and phone numbers of local victim service programs where appropriate;
- the name, phone number, and office location of the person in the district attorney's office to whom inquiries concerning the victims case may be directed; and
- any other information DCJS deems appropriate.

Directs the DCJS Commissioner, in cooperation with the CVB, to prepare and distribute the information pamphlet and issue any guidelines it deems necessary in relation to its distribution, provided, however, that any district attorney currently distributing similar informational pamphlets may deplete current supplies before revising the pamphlet in accordance with these provisions. States that nothing in this measure is to be construed to cause the delay of proceedings against any criminal defendant, nor affect the validity of any criminal conviction, judgment, or order. Effective January 1, 1995. (Executive Law; Unconsolidated Laws)

**Documentation for Awarding Crime
Victim Compensation**

S. 7445
Chapter 244

Expands the range of criminal justice records that will be accepted as documentary evidence that a crime was promptly reported in order to be eligible for crime victim compensation by replacing references to police in applicable statutes with the term criminal justice agency. Defines "criminal justice agency" as including, but not limited to, a police department, district attorney's office, and any other governmental agency having responsibility for enforcement of the criminal laws of this State. Effective July 6, 1994. (Executive Law)

IMPORTANT BILLS

Right to Parole Information

S. 6388
Passed Senate

Provides that a statement of the reasons for granting parole, if parole is granted, is to be in writing and provided within a reasonable time after such decision to a victim or victim's representative who has filed a victim impact statement with the Crime Victims Board. Reduces, from 60 to 15 days of the final disposition of the case, the amount of time within which the district attorney is to inform the victim by letter of the final disposition. (Executive Law; Criminal Procedure Law)

Payment of Counseling Costs of Crime Victims

S. 245-A
Passed Senate

Amends a provision authorizing the Crime Victims Board to pay the unreimbursed costs of counseling for eligible family members of homicide victims; victims of sex offenses; eligible spouses of victims of sex offenses; and crime victims suffering from traumatic shock. Broadens the authorization to include family members of a victim of homicide or any violent felony offense and crime victims suffering from traumatic shock. (Executive Law)

Confidentiality for Persons Making Statements to the Parole Board

S. 3799
Passed Senate

Requires the Parole Board where a crime victim or victim's representative (as defined in the law), or other person, submits to the Board a written statement concerning the release of an inmate, to keep the individual's name and address confidential. (Executive Law)

Exclusion of Inmates From Crime Victim Compensation

S. 4403
Passed Senate

States that a crime victim compensation claimant who suffers injury or loss resulting from a crime which occurred in a correctional or other custodial facility while serving a sentence of incarceration will not be eligible to receive an award of compensation upon a claim pertaining to such crime. (Executive Law)

Victim Impact Statement When Making the Parole Release Decision

S. 6340
Passed Senate

Specifies that a crime victim's impact statement when being considered in making a parole release decision, may be submitted or supplemented by the victim or his/her representative to include information concerning threatening or intimidating conduct toward the victim, his/her representative, or immediate family, made by the person sentenced and occurring after the sentencing. Allows such information to include the threatening or intimidating conduct of any other person who or which is directed by the person sentenced as well as the severity of the crime and the personal impact of the crime upon the victim or members of his/her family. (Executive Law)

Missing Children Crime Victim Claims

S. 6569
Passed Senate

Specifies that where a child has been reported missing for a time period exceeding 7 days, rather than 30 days, there will be a rebuttable presumption that the child is a victim of a crime for Crime Victims Board claim determination purposes. (Executive Law)

Definition of a Crime Victim

S. 7008-A
Passed Senate

Extends the existing definition of a "crime victim" for purposes of eligibility for victim compensation to include those who suffer mental or emotional injury as a direct result of a crime. (Executive Law)

SENTENCING

New York State possesses one of the most complex sentencing structures in the United States, and every year the Legislature enacts measures to fine-tune this structure. The controversy surrounding sentencing in New York involves the Rockefeller Drug Laws and the Second Felony Offender Law. Enacted in 1973, the Second Felony Offender Law mandates prison sentences for all repeat felons, while the Rockefeller Drug Laws (also enacted in 1973) instituted lengthy mandatory prison sentences for various drug offenses. Critics blame these laws for crowding New York's prisons with low-level, nonviolent drug offenders and claim that such offenders would be better served outside prison walls, leaving space for more violent offenders. However, others point to a study done in Miami which tracked 573 drug user/offenders for a year and showed that these offenders were responsible for 6,000 robberies, 6,700 burglaries, 46,000 larcenies, and many other crimes. In addition, a 1990 evaluation by the Manhattan District Attorney's office of the second felony offender population indicated that the average offender in this category had 10 prior arrests, half of which were for felonies, and 7 convictions. The Legislature rejected the Governor's 1994-95 Budget recommendation to amend the Second Felony Offender Law (S. 6478, No Action).

An anti-crime proposal which has gained momentum nationwide involves mandatory life imprisonment for certain habitual offenders and has become known as "3 Strikes" legislation. The premise for this concept currently being considered in over 30 states as well as at the federal level, derives from advocates' assertions that approximately 70% of all violent crime is committed by only 6% of the "hard-core" criminals. Proponents also suggest that the biggest source of violent crime in America is the early release of violent criminals who continue to prey upon unsuspecting victims. Washington State enacted the nation's first "3 Strikes" law in November, 1993, which was approved by 76% of the voters in a referendum. The New York State Senate passed 3 different "3 Strikes" proposals during the 1994 Session (S. 3385, Passed Senate; S. 6338-A, Passed Senate; and S. 6309-C, Passed Senate). The Governor also submitted a program bill which would mandate life imprisonment for certain persistent felony offenders (S. 7874, No Action).

IMPORTANT BILLS

Conversion of Indeterminate Sentences to Determinate Sentences

S. 7447
Passed Senate

Authorizes and empowers the Commissioner of Correctional Services to convert the sentence of a person sentenced to an indeterminate sentence to a determinate sentence equal to the maximum term originally imposed where such conversion is necessary to make such person eligible for transfer either to federal custody or to foreign countries under treaties dealing with the execution of penal sentences entered into by the government of the United States with foreign countries. (Correction Law)

LOCAL CRIME AND CORRECTIONS

The single most pressing problem faced by local correctional facilities is overcrowding. There are 16 correctional facilities plus one jail barge currently in use in New York City, and 64 local correctional facilities located outside the City (including both jails and penitentiaries). New York City registered a jail population of 18,145 inmates at the end of July, 1994, placing the system at 97.1% of operating capacity (usable beds). The total upstate jail population for the end of July, 1994, was 13,587 inmates, although the overcrowding problem there varies widely, from a low of 24.7% standard capacity at the Schoharie County Jail to a high of 180% standard capacity at the Orange County Jail. In fact, 11 upstate local correctional facilities were at or above 100% capacity in July, 1994. The Senate passed legislation to address this situation, by extending from 30 to 60 days, the period of time for which the chief administrator of a local correctional facility may apply to commingle persons under 19 years of age with those 19 years of age or older under emergency overcrowding conditions (S. 1648, Passed Senate).

State-ready inmates are prisoners who have been sentenced to terms in State institutions but who have not yet been transferred from the local jails where they had been detained for trial. Jail overcrowding is exacerbated when the jails are forced to hold State-ready inmates because the Department of Correctional Services (DOCS) does not have any available cells. In fact, the primary reason for delay in transferring State-ready inmates is the lack of available space in DOCS facilities. As of July 12, 1994, there was a total of 1,638 State-ready inmates awaiting transfer to DOCS facilities. The cost of housing State-ready inmates in jails is a financial strain as well. The 1994-95 Aid to Localities Budget contains \$34,377,800 for reimbursement of local facilities for housing State-ready inmates and parole violators (for whom facilities are reimbursed at a rate not to exceed \$34 per day), and Class D and E felons (in an amount not to exceed \$17 per day) (A. 9103-A, Chapter 53, L. 1994).

A 1989 budget initiative requires every county and New York City to establish a local conditional release commission, transfer the authority to conditionally release eligible inmates from the Parole Board to such commissions, and transfer the community supervision of these releasees from the Division of Parole to local probation departments (Chapter 79, L. 1989). Although the law was initially scheduled to sunset May 1, 1990, legislation is approved each session to extend this law. During the 1994 Session, a measure was enacted to extend local conditional release programs until May 1, 1997 (S. 7693, Chapter 61, L. 1994). The Legislature also enacted a measure to extend Chapter 907 of the Laws of 1984, relating to prison and jail housing and alternatives to detention and incarceration programs, which will now expire on September 30, 1997 (S. 7693, Chapter 61, L. 1994).

ENACTED LEGISLATION

**Citizen's Policy and Complaint
Review Council**

S. 4508
Chapter 86

Adds the requirement that one person appointed to the Citizen's Policy and Complaint Review Council of the Commission of Correction be a former correction officer, to be accomplished by the Governor no later than the next appointment to the Council following the effective date. Effective May 10, 1994. (Correction Law)

**Use of the Onondaga County Jail
for Arraignment Detainees**

A. 376/S. 8269
Chapter 541

Provides the legal authority for the use of a newly-constructed Onondaga County Jail facility for the temporary detention of persons under arrest prior to his or her appearance before a court for an arraignment hearing. Effective July 26, 1994. (Correction Law)

IMPORTANT BILLS

**Commingling Inmates During Emergency
Overcrowding Conditions**

S. 1648
Passed Senate

Extends, from 30 days to 60 days, the period of time for which the chief administrator in a local correctional facility may apply to the Commission of Correction to commingle persons under 19 years of age with those 19 years of age or older in order to address an emergency overcrowding condition. Stipulates that such application is to specify the area(s) of the facility for which such permission is sought. Increases the amount of time that the chief administrative officer may continue the commingling from 30 to 60 days, or until he/she determines that such overcrowding no longer exists when the Commission determines that such commingling does not present a danger to the health, safety, or welfare of any such inmate. Requires that in the event that the Commission determines that danger exists for any inmate and the chief administrator corrects such dangers and reapplies to the Commission for permission to commingle, the chief administrative officer may continue the commingling for 60 days upon receipt of certification from the Commission that the facility is in compliance, less any time such inmates were commingled following application to the Commission or when a determination is made that such overcrowding no longer exists, whichever occurs first. Allows the chief administrative officer to apply for permission to commingle such inmates for up to 2 additional 60-day periods. Removes obsolete language limiting a locality from applying for more than one 30-day commingling period for the period ending December 13, 1984. (Correction Law)

**Maintenance of Prisoners in County
Jail Facilities**

S. 5321
Passed Senate

Amends the Correction Law to require that the expenses of food and medical care provided to inmates detained for trial in local correctional facilities be charged to any nonindigent defendant, and in the case when a child is born to a female inmate, the maintenance costs of such child. Further specifies that a civil prisoner must be charged for his/her maintenance the current daily per capita maintenance expense as certified by the sheriff or warden.

Adds a new section to the County Law to establish procedures in accordance with due process of law to determine whether a person who has been sentenced and imprisoned in a county or city jail is possessed of sufficient means or able to earn such means to reimburse the county or city for certain expenses it incurred and to issue an appropriate reimbursement order based upon the person's financial circumstances. Grants the county court, district court, and New York City Civil Court exclusive original jurisdiction over proceedings for reimbursement under these provisions.

Specifies that a person who has served time in a jail pursuant to sentence of imprisonment is chargeable with reimbursement to the county or city, provided he/she is of sufficient means or able to earn such means, for housing, food, and clothing incurred during the period of imprisonment, based upon a fair and reasonable sum according to the person's respective means as the court may determine and apportion. Requires the court, in making its award for reimbursement, to consider all relevant factors, including:

- financial resources, assets, and expenses;
- health;
- age;
- current child support and maintenance court orders;
- outstanding court-ordered fines or restitution, current income executions, or income deduction orders; and
- any other factor the court expressly finds to be just and proper.

Limits the award to the amount actually paid by the county or city for housing, food, and clothing on behalf of the respondent. Permits proceedings to compel reimbursement to be originated in the county or city in which the respondent was imprisoned or in which he/she resides or is domiciled at the time the petition is filed and to be initiated by any appropriate department or agency. Details the procedures to be followed in initiating such actions, including the contents of the petition, service and timing requirements, disclosure of the respondent's finances, and issuance of summonses. Stipulates that any agreement for reimbursement reached without the filing of a petition must be reduced to writing and submitted to a hearing examiner appointed for such purposes for approval. If the hearing examiner approves it, he/she may enter an order in accordance with the agreement without further hearing, with the order to be binding upon the respondent and in all respects a valid order. Requires that the court record show that the order was made upon agreement.

Permits the judge, on application by the petitioner, to issue a warrant directing that the respondent be arrested and brought before the court when a petition has been filed and it appears that either the summons cannot be served, the respondent is likely to leave the jurisdiction, or the respondent has failed to obey the summons. Upon the return of the summons, requires the court to hear and determine the case, to inform the respondent of the contents of the petition, advise him/her of the right to counsel, and to provide him/her an opportunity to be heard and to present witnesses. Specifies that hearings are to be conducted before a hearing examiner, without a jury. Details the authority and duties of the hearing officer and the procedures to be followed in such hearings. Provides a process for court review of a determination by a hearing examiner and for subsequent appeal of the final order. Requires the Chief Administrator of the Courts to promulgate written rules for the selection, appointment, reappointment, compensation, and training of hearing examiners.

Stipulates that any reimbursement order made by the court must direct that payments be made to the support collection unit designated by the appropriate social

services district, which must receive and disperse funds so received, and that it include on its face a notice in at least 8-point bold type informing the respondent that a willful failure to obey the order may, after court hearing, result in a jail term not to exceed 6 months for contempt of court. Requires the hearing examiner, if the allegations that the respondent is of sufficient means or able to earn such means are not established, to dismiss the petition. Authorizes the hearing examiner or a judge to enter an order with respect to an income deduction for support enforcement.

Permits the county or city to enforce the collection of a reimbursement order by the filing of a petition alleging that the respondent has failed to obey a lawful order of the court and details the applicable procedures and the enforcement powers available to the court. Upon a finding by the court that a respondent has willfully failed to obey such order, allows the court to commit the respondent to jail for a term not to exceed 6 months, to be served as the court may direct. States that failure to pay reimbursement as ordered constitutes prima facie evidence of a willful violation. Provides for suspensions of such commitments and for the revocation of suspensions. Specifies that such commitment does not prevent the court from subsequently committing the respondent for failure thereafter to comply with any such order. Establishes a process whereby a respondent who is unable to comply with a lawful order of this kind may apply to the court for an order relieving him/her of such payments. (Correction Law; County Law)

PROBATION AND CORRECTIONAL ALTERNATIVES

There has been an increasing reliance upon probation and alternatives to incarceration programs in recent years in order to help curb overcrowding in correctional facilities. New York State has seen an increase of almost 44,000 probation cases over the last 5 years, along with a proportionate increase of felony offenders under probation supervision as well. In New York State, probation services are generally provided by local units of government and regulated by the State Division of Probation and Correctional Alternatives (DPCA), which was created in 1985 by the merger of the Division of Probation and the Alternatives to Incarceration Unit of the Division of Criminal Justice Services (Chapter 134, L. 1985). The DPCA oversees the development and execution of community-based corrections and alternatives to incarceration programs, serves as the regulatory and standard-setting agency for all county departments of probation, and administers funds to the county level for local alternatives to incarceration programs.

In 1965, the rate of State aid reimbursement to local probation departments was increased to 50% of approved expenditures. Approved expenditures are those necessary to maintain and improve probation services, excluding such items as capital expenditures, debt service, rental of office space, and fringe benefits. However, the amount appropriated for State aid for most of the 1980s only provided 46.5% reimbursement of approved expenditures. In 1990, the Governor inserted language in the budget to require that State aid be capped at 46.5% of approved expenditures and subsequently the actual rate of reimbursement provided through budget appropriations dropped each year to a low of 30.5% in 1993-94. The Executive Budget for 1994-95 proposed an appropriation level which would have provided a 28.5% reimbursement rate for local probation departments. The Legislature added \$10.4 million to the Aid to Localities Budget to bring the reimbursement rate up to 39% (A. 9103-A, Chapter 53, L. 1994). Language was also added by the Legislature to ensure that a minimum of 39% State aid reimbursement would be maintained for FY 1995-96 (A. 11854, Chapter 170, L. 1994).

The Legislature enacted an omnibus criminal justice extender bill which includes provisions extending the Classifications/Alternatives to Incarceration program until September 30, 1997, and the probation administrative fee for the supervision of persons convicted of certain DWI offenses and the Family Court investigation fee until April 30, 1997 (S. 7693, Chapter 61, L. 1994).

IMPORTANT BILLS

Payment of Probation Fees

S. 1156
Passed Senate

Provides that a person who receives a sentence of probation is chargeable with reimbursement to the county probation service or to the probation services of New York City of the county or city which has supervision over such person, provided he/she is of sufficient means or able to earn such means. Requires reimbursement payments to be payable monthly and not exceed the amount actually expended for provision of such services by a county or city during the period the probationer is on probation. Allows the sentencing court to make reimbursement pursuant to an adjustable scale or condition of probation after consideration of all relevant factors, including the probationer's financial resources, assets, and expenses; health; age;

current child support and maintenance court orders; outstanding court-ordered fines or restitution or current income executions or income deduction orders; and any other factor which the court expressly finds to be just and proper. Requires the sentencing court to order payment of reimbursement by the probationer to the local probation service having supervision over such person. Adds to the conditions of probation or conditional discharge in the Penal Law, the requirement to pay a fee for probation services. (Executive Law; Penal Law)

STATE PRISONS

The prison population in New York State has long since reached a critical stage of overcrowding in which the number of prisoners has surpassed the existing available space. The increase in drug-related crime is causing an enormous strain on an already overburdened criminal justice system, filling the prisons to capacity. Drug offenders, who comprised 10%-12% of the annual Department of Correctional Services (DOCS) intake in 1985, currently comprise 44.5% (3,429) of the total intake of 7,705 from January through April, 1994. As of June 1, 1994, there were 65,376 inmates in DOCS facilities, which put the system at 130.1% of the design capacity of 50,231 beds. In order to house all the inmates, DOCS utilizes temporary bed space such as double bunking, placing single beds in areas that were originally designed for program space, and utilizing the cell space of inmates who are either in infirmaries or under discipline in special housing units until such inmates are returned to their regular cells. In an effort to help address the problem, the Legislature again extended, this time until September 1, 1995, the sunset date of provisions allowing inmates who have completed at least 6 months of intensive alcohol and substance abuse treatment services in a DOCS-designated alcohol and substance abuse treatment correctional annex to be transferred to a program operated by or at a residential treatment facility (S. 7693, Chapter 61, L. 1994).

Financing the construction, expansion, and renovation of prison facilities presents a formidable challenge. The 1994-95 State Operations Budget included \$9.85 million for capacity expansion to convert Gowanda Psychiatric facility on the grounds of Collins Correctional Facility (Erie County) into a 750-bed medium security facility which will be used as a Vocational and Skills Training (VAST) facility and \$1.77 million for a 200-bed expansion at Hale Creek (Fulton County) Comprehensive Alcohol and Substance Abuse Treatment (CASAT) facility (A. 9100-A, Chapter 50, L. 1994). The Capital Projects Budget included another \$23 million for the completion of these 2 projects (S. 6454-A, Chapter 54, L. 1994). The Legislature increased the cap on Urban Development Corporation bonds that may be issued for the purpose of construction and rehabilitation of correctional facilities by \$303 million (from \$2.623 billion to \$2.926 billion) during the 1994 Session (A. 11854, Chapter 170, L. 1994).

ENACTED LEGISLATION

Repeal of Prison Daily Record Requirement

A. 7960/S. 2114
Chapter 110

Repeals a requirement, originally enacted in 1929, that correctional facility superintendents keep a daily record of the proceedings of the facility that includes all rule infractions by employees, punishments inflicted on inmates, and well-founded complaints by inmates regarding bad or insufficient food, want of clothing, or cruel or unjust treatment by an employee (such recordkeeping is duplicative of other reporting processes and outdated). Effective May 24, 1994. (Correction Law)

Use of Prison Commissaries

S. 3294
Chapter 487

Restricts the establishment of commissaries or canteens in corrections institutions for the use and benefit of inmates only by removing employees as a group for whose

benefit they may be established. Effective July 26, 1994. (Corrections Law)

IMPORTANT BILLS

Loans to Inmates for College Tuition

S. 2754
Passed Senate

Provides that the Director of Vocational Education of the Department of Correctional Services (DOCS) may authorize the expenditure of public funds for tuition payments to colleges or universities for the education of inmates under the following specified terms and conditions:

- the inmate must agree to repay the cost of such tuition;
- the funds expended by DOCS, any other State agency, or any public benefit corporation for tuition are to be deemed a loan to the inmate;
- the inmate is not to be obligated to commence repayment of the loan any earlier than 6 months following the termination of the inmate's educational program or 6 months following release by DOCS to parole, whichever occurs later;
- the loan, as long as the borrower is not in default, is to be repaid in periodic installments of principal only in such amounts and over such period of time as the lender shall determine and as agreed to in writing by the inmate prior to any expenditure made in his/her behalf;
- no periodic installments need be made for any period not in excess of 3 years during which the borrower is a member of the U.S. armed forces, or in service as a volunteer under the Peace Corps Act or the Domestic Volunteer Services Act of 1973;
- if any borrower dies or becomes permanently and totally disabled to the extent that the borrower receives Social Security disability benefits under the federal Social Security Act, prior to repayment of the loan in full, any unpaid principal balance is to be discharged; and
- interest may not accrue or become payable unless the borrower defaults under the terms of the loan and then it may accrue and become due in accordance with the terms of the loan.

Prohibits expenditures of public funds for tuition payments for the education of inmates who have more than 8 years to serve before parole eligibility. Specifies that the failure of the borrower to complete at least 1 course during any regularly scheduled semester is to be deemed a termination of the borrower's college or university educational program. Permits the lender to accelerate the repayment of any loan made in error or in reliance upon a false statement. Provides that an action to obtain repayment by inmates of their tuition loans may be commenced by the lender within 10 years of default. Requires DOCS to adopt rules and regulations, consistent with law, to effectuate these provisions. (Correction Law; Civil Practice Law and Rules)

**Correctional Facility Payments for
Fire and Ambulance Services**

S. 2288
Passed Senate

Mandates that each correctional facility within the Department of Correctional Services (DOCS), unless it has been or is being serviced by a fire department consisting solely of DOCS employees, make an annual payment in lieu of taxes to the taxing jurisdiction that provides all or part of such services or makes all or part of such services available to the facility. Requires that such payment be in the amount of \$1 per inmate in residence in the institution on the previous May 1 and that it be taken from the general operating funds of the facility no later than January 31 of each calendar year. Mandates the same size payment at the same time of year to the taxing jurisdiction or the volunteer ambulance service which services any facility that does not have an ambulance district consisting solely of employees of DOCS. (Correction Law)

**Civil Actions Against Officers of the
Office of Mental Health**

S. 7566
Passed Senate

Provides that no civil action can be brought in any court of the State against any officer or employee of the Office of Mental Health (OMH) who provides services in a program for the treatment of mentally ill inmates in a Department of Correctional Services facility, for actions or omissions made within the scope of the officer's employment. Provides that any claims for damages against such OMH employees must be brought and maintained in the Court of Claims as a claim against the State. (Correction Law)

Inmate Possession of Unauthorized Money .

S. 7567
Passed Senate

Provides that any unauthorized money found in the possession of an inmate is to be confiscated and first applied to any outstanding mandatory surcharge, crime victim assistance fee, fine, restitution, or other lawful encumbrance applicable to the inmate. Stipulates that any remaining sums from such unauthorized money thereafter is to be transferred to the Criminal Justice Improvement Account. (Correction Law)

**Cost of Fire and Ambulance Service
to Correctional Facilities**

S. 7725
Passed Senate

Authorizes and directs the Commissioner of the Department of Correctional Services (DOCS) to contract with the Georgetown Fire District (Madison County) and the Pharsalia Volunteer Fire Department Company, Inc. (Chenango County) for the provision of firefighting and ambulance services to Camp Georgetown and Camp Pharsalia on an annual basis. Specifies that the contract is to provide that the State pay to these entities for such services an amount equal to a prorated share of the costs expended by such town for such services in the prior fiscal year for the State-owned land constituting the 2 camps. (Correction Law)

CORRECTION OFFICERS

The increasing prison population, housed in already overcrowded facilities, adds to the danger and stress of the correction officer's job. Correction officer ranks in New York State have grown from approximately 7,500 in 1979 to approximately 17,842 as of May, 1994. Due to the nature of the job, it is imperative that correction officers have strong, stable personalities, since mishandling of inmates can sometimes lead to an explosion of violence. The Background Investigations Unit of the Department of Correctional Services (DOCS) conducts a thorough background check of all correction officer candidates. Prior to employment, all correction officer candidates are required to undergo a psychological screening, with an appeals process available for those candidates who are deemed ineligible through psychological testing. The Legislature has extended the expiration date of the provisions requiring psychological testing of correction officer candidates several times, most recently until April 1, 1996 (A. 9670, Chapter 47, L. 1994).

During the process of the background check, information sometimes reveals that the candidate engaged in conduct which would make him/her unsuitable for employment as a correction officer. A request for disqualification must be submitted to and approved by the Department of Civil Service in order to disqualify candidates whose background reveals egregious conduct. However, actual criminal conviction is required before a requested disqualification may be approved, forcing DOCS to hire as correction officers persons whose conduct clearly indicates that they are unsuitable for the position. The Senate sought to address this problem by passing a measure to allow the DOCS Commissioner to disqualify correction officer candidates who do not have fitness and good moral character (S. 5149, Passed Senate).

ENACTED LEGISLATION

Psychological Testing for Correction Officers

A. 9670/S. 7139
Chapter 47

Extends for 2 additional years, until April 1, 1996, the provisions of the Correction Law related to psychological testing of candidates for employment as correction officers. Effective April 11, 1994. (Correction Law)

IMPORTANT BILLS

Qualifications for NYS Correctional Officers

S. 5149
Passed Senate

Allows the Commissioner of the Department of Correctional Services to disqualify correction officer candidates who do not have fitness and good moral character, where the employment of such person is not in the best interest of the Department. (Corrections Law)

TEMPORARY RELEASE PROGRAMS

The Temporary Release Program of the New York State Department of Correctional Services (DOCS) was established by Chapter 472 of the Laws of 1969. Temporary release is the general term used to describe all forms of unescorted inmate release. During the first year (1970), 70 inmates participated in the program. By 1993, 24,492 inmates participated in long-term continuous temporary release programs (including work release, educational release, industrial training leave and long-term community service leave) and 3,172 inmates participated in short-term temporary release programs (including furloughs and leaves of absence), for a total of 27,664 participants.

The Temporary Release Program has been used in recent years as a means to relieve prison overcrowding in New York State in order to avoid the costly alternative of constructing additional correctional facilities. While participation has grown markedly in recent years, it has not been problem-free. The number of absconders from the Temporary Release Program increased by 112% over 1990 figures in 1991, by 44% in 1992, and by 82% in 1993. The percentage of absconders also increased from 2% of program participants in 1990, to 7% in 1991, 13% in 1992, and 15% in 1993. DOCS indicates that over 1/3 of program participants are drug offenders, which has contributed to the increased number of absconders, and that counseling and substance abuse programming continues to be a priority of the Department in order to reduce the number of absconders from the program.

According to DOCS, the number of inmate participants in various temporary release programs in New York State in 1993 and the number who absconded from such programs are as follows: work release--24,236 (4,006 absconders); educational release--10 (0 absconders); industrial training leave--171 (1 absconder); community service leave long-term--75 (0 absconders); furlough--3,045 (79 absconders); and leave of absence--127 (0 absconders). The Temporary Release Program has never been permanently established in statute but is extended periodically, most recently until 1995 (S. 7693, Chapter 61, L. 1994).

Concern about the absconder rate led to the passage of a measure to restrict eligibility for work release programs. Included are provisions to make those who are under sentence for any homicide or sex offense ineligible for work release, as well as those under sentence for any Class B or Class C violent felony offense involving the use or threatened use of a deadly weapon or dangerous instrument unless he/she is eligible for parole or will be eligible for parole or conditional release within 18 months (S. 7456, Chapter 60, L. 1994). The language also states that work release participants must have a reasonable assurance of a job training program or employment prior to release and participation may be revoked if a participant ceases to be employed or involved in the training program. The statute also defines a Vocational and Skills Training (VAST) facility as a correctional facility designated to provide a vocational and skills training program to inmates who need such service prior to participation in a work release program. The State Operations Budget for 1994-95 included \$9.85 million for a 750-bed expansion at Collins Correctional Facility (Erie County) which will be used for a VAST facility (A. 9100-A, Chapter 50, L. 1994).

IMPORTANT BILLS

Eligibility for Temporary Release Programs

S. 577
Passed Senate

Adds persons who have been convicted of bail jumping to those inmates ineligible to participate in temporary release programs. (Correction Law)

Retaking of Absconders and Erroneously Released Inmates

S. 2115
Passed Senate

Expands provisions authorizing the retaking of an inmate who escapes from a correctional facility to make them applicable as well to an inmate who absconds while participating in a temporary release program, absconds while participating in a residential treatment facility program, or is erroneously released from a correctional facility. (Correction Law)

PAROLE

Parole is the supervision of offenders in the community after their release from prison or jail prior to the maximum expiration of their sentences. It is a form of conditional liberty; offenders on parole must comply with certain restrictions on their behavior in order to live and work in the community. The State Parole Board conducts hearings in State prisons to determine parole eligibility for inmates. The Division of Parole is then responsible for supervising parolees in the community. As of June 30, 1994, there were a total of 49,704 parolees under supervision in New York State (excluding those on work release).

Medical parole has been debated in the State Legislature since 1988. It was proposed and supported as a humanitarian issue by groups who argued that terminally ill inmates should be able to have the support of loved ones during their last days. Proponents also argued that medical parole would free up cell space for offenders who pose a more serious threat to society and would be a cost-saving measure because the Department of Correctional Services would no longer be entirely responsible for the medical care of terminally ill inmates. After numerous attempts at passage since 1988 and many negotiations on the concept of medical parole, the Legislature and Governor enacted such a measure within the Omnibus Revenue Act of 1992 (Chapter 55, L. 1992). However, in the 2 years since its implementation, only 30 individuals have been released on medical parole out of 447 applicants. One reason why so few have been able to participate in the program is because of the vague medical standards for release which required a physician to certify that an inmate was incapable of presenting any danger to society. The Legislature in 1994 passed a measure to clarify the medical standards for parole release by requiring that the physician certify that the inmate is so debilitated or incapacitated as to be severely restricted in his/her ability to self-ambulate and to care for him/herself (S. 5145-A, Chapter 503, L. 1994). Another measure extends the medical parole program from March 31, 1994, to April 10, 1996 (S. 7693, Chapter 61, L. 1994).

Until 1989, the Parole Board had the authority to conditionally release to the community eligible inmates serving definite sentences in local jails, after which the Division of Parole became responsible for their supervision. Pursuant to a 1989 budget bill, every county and New York City was required to establish a local conditional release commission with at least 3 members, and the authority to conditionally release eligible inmates was transferred from the Parole Board to these commissions, with the community supervision of releasees transferred from the Division of Parole to local probation departments. The law, originally scheduled to sunset on May 1, 1990, has been extended each year, and was again extended until May 1, 1997, during the 1994 Session (S. 7693, Chapter 61, L. 1994).

ENACTED LEGISLATION

Medical Parole Extension and Clarification

S. 5145-A
Chapter 503

Clarifies requirements for medical parole by changing the requirement that the inmate be so debilitated or incapacitated as to create a reasonable probability that he/she is physically incapable of presenting any danger to society, to the inmate being so debilitated or incapacitated as to be severely restricted in his/her ability to self-ambulate and to care for him/herself. Extends the term of medical parole from

4 to 6 months. Adds that any certification by the Commissioner of Correctional Services' designee, in addition to ones by the Commissioner, is deemed a judicial function and that the releasee is to undergo a medical examination at least 1 month prior to the expiration of medical parole. Effective July 26, 1994. (Executive Law)

IMPORTANT BILLS

Availability of Child Abuse Reports

S. 4659
Passed Senate

Repeals existing law regarding the provision of information to child protection services by probation departments and the Division of Parole. Adds a new section requiring that, upon a written request from a child protective services agency conducting an investigation of child abuse or maltreatment or providing services to the family of a child or from the Department of Social Services (DSS) or the Commission on Quality of Care for the Mentally Disabled when either such organization is conducting such investigation, the probation department or the Division of Parole provide the requesting agency with existing records or a portion thereof regarding an individual presently or previously under the department's or Division's supervision that are relevant to the investigation being conducted or services being provided by the requesting agency unless such disclosure is prohibited by law. Permits the Chairman of the Division of Parole and the local social services commissioner, upon the request of a local social services district, to enter into an agreement whereby the Division and a local child protective service will work together in appropriate cases to share information, develop service and supervision plans, conduct joint case reviews and/or home visits, or conduct such other cooperative planning and supervision as is appropriate in a particular case. Separates the parole access provisions from the probation access provisions and makes the Division's access to child abuse reports more similar to that of district attorney's offices and police agencies under existing law. Specifically, allows the Division to have access to confidential child abuse reports when the report regards a person with respect to whom the Division is conducting an investigation, preparing a report to the State Board of Parole, or providing supervision, when the Division requests such information stating that such information is necessary for such purposes, that there is reasonable cause to believe that such person is the subject of a report, and that it is reasonable to believe that due to the nature of the person's prior conviction, the alleged violation of parole or conditional release under investigation, or the presence of a child believed to have suffered or to be suffering from abuse or maltreatment by the inmate or releasee in the household to which an inmate may be released, or in which a releasee is residing, such records may be related to the Division's investigation, report, or supervision. (Executive Law; Social Services Law)

Authority of Parole Board to Release Certain Inmates

S. 128-A
Passed Senate

Subjects the authority of the State Board of Parole to release inmates serving an indeterminate sentence to the written approval of the judge having imposed such sentence of imprisonment. Provides that if the judge fails to mail a response to the Board within 25 days after the Board mails the notification, the sentencing judge is to be deemed to have approved of any release. Stipulates that if the sentencing judge is no longer sitting, then the notification provided in this measure is to be

dispensed with. (Executive Law)

**Parole Release of Inmates Subject to
Deportation**

S. 1898
Passed Senate

Directs the Parole Board, upon at least 72 hours written notice to the office of the district attorney applicable to the inmate, to grant early release to any inmate who is subject to deportation by the U.S. Immigration and Naturalization Service (INS) if:

- the inmate is not an offender convicted of first degree or second degree murder;
- the inmate has served the minimum period of imprisonment;
- the INS has assured the Board that a deportation order will be executed or that deportation proceedings will promptly be commenced for the deportation upon release of the inmate from the custody of the Department of Correctional Services, and that if granted parole pursuant to these provisions, the inmate would not be released from INS custody (unless as a result of deportation), without the Board being provided a reasonable opportunity to arrange for execution of its warrant for retaking such parolee; and
- the inmate concedes that he/she is deportable from the U.S. and makes no application for relief from deportation to allow him/her to remain in the U.S., and the inmate further requests that an order be issued for deportation.

Requires the Board, if it receives a statement opposing such early release from the applicable district attorney, to make a determination prior to granting early release, based upon the statements of the district attorney, as to whether the early release is compatible with the welfare of society and will not so deprecate the seriousness of the inmate's crime as to undermine respect for the law. (Executive Law)

**Active Parole Supervision of Certain
Inmates**

S. 3284-A
Passed Senate

Requires the Division of Parole to actively supervise inmates convicted of a violent felony offense as defined in the Penal Law who are released on parole or conditional release. (Executive Law)

**Mandatory DNA Testing of Convicted
Sex Crime Parolees**

S. 3797
Passed Senate

Requires convicted sex crime parolees, as a condition of release, to submit to the Board of Parole a biological sample for a deoxyribonucleic acid (DNA) profile analysis which must be indexed and filed in a central repository. (Executive Law)

NOMINATIONS APPROVED BY THE COMMITTEE

Michael M. Baden, MD
(reappointment)

Member, Correction Medical
Review Board

Barbara Broderick
(new appointment)

State Director, Probation &
Correctional Alternatives

Joseph W. Burke
(new appointment)

Member, Citizen's Policy &
Complaint Review Council

Lorraine Felegy
(reappointment)

Member, Crime Victims Board

William McMahon
appointment)

Superintendent, New York (new
State Police

Sean McSherry
(reappointment)

Member, State Board of Parole

Sandra Morales-Deleon
(reappointment)

Member, State Board of Parole

Daniel B. Tauriello
(new appointment)

Member, State Board of Parole

Barbara C. Wolf, MD
(reappointment)

Member, Correction Medical
Review Board

CORRECTION ON CANVAS XXVIII

The Senate Committee on Crime Victims, Crime and Correction and the New York State Department of Correctional Services jointly sponsored *Correction on Canvas XXVIII*, the annual art show and sale to showcase the work of inmate artists and benefit crime victims.

Held from February 28 through March 11 in the Well of the Legislative Office Building in Albany, this 28th exhibit displayed a total of 875 works of art from 175 inmates at 33 correctional facilities throughout the state.

A panel of volunteer judges included New York State Senate Senior Designer Janet Anderson, Portrait Artist Constance DeVecchio Maltese, Art Teacher Joseph Fritz, Art Teacher Cathy Harrington, Crime Victims Board Member Diane McGrath-Mckechnie, Graphic Arts Supervisor Milton McPherson, Art History Professor Emeritus Sr. Margaret O'Donnell, CSJ, Art Teacher Mary Kay Ostwald, Art Specialist Henric Post, Artist Judith Powers, Artist Jeffrey Reese, Art Teacher Carol Siver, Art Teacher John Shaver and Art Teacher Natalie Spence.

The judges awarded first, second, third and honorable mention ribbons in six categories, including crafts, graphics, mixed media, painting, sculpture and watercolor. In addition, "Untitled" by Eastern Correctional Facility Inmate P. Papandrew was selected as the "Best of Show."

The focal point of the exhibit was the Crime Victim's Board section, which displayed works donated by inmates for sale specifically to benefit victims of crimes. This year, the proceeds from the donated works totalled \$2,200. The judges selected "Correction on Canvas" by Sullivan Correctional Facility Inmate L. Condon as the "Best Donated Work" for 1994. The total amount presented to the Crime Victims Compensation Board since the show began in 1984 is now at \$17,151.

Special appreciation for the success of the exhibit is extended to Thomas A. Coughlin III, the former Commissioner of Correctional Services, and his dedicated staff. The Committee also wishes to acknowledge NYNEX for its continued support of Correction on Canvas through their donation of prizes, as well as the Metropolitan Police Conference of New York State, the Detectives' Endowment Association, the Correction Captains Association, the Police Benevolent Association of the New York State Troopers, the Police Conference of New York, the Port Authority Police Benevolent Association and the New York City Housing Police Benevolent Association for their support.

PUBLIC HEARING ON THE INCREASING PROBLEM OF ABSCONDERS FROM TEMPORARY RELEASE PROGRAMS

The Senate Crime Victims, Crime and Correction Committee held a hearing on May 25 in Albany to obtain testimony on the increasing problem of absconders from the State Prison System's Temporary Release programs.

Witnesses who testified at the hearing include:

Correctional Services Commissioner Thomas A. Coughlin, III
Monroe County District Attorney Howard R. Relin
Warren County District Attorney Richard M. Healy
Council 82 President Thomas P. Kennedy, III
Prisoner Legal Services Representative William M. Gibney
SUNY Cortland Professor Alice Kaminsky
Criminal Justice Consultant Tracy Huling
Queens Correctional Facility Graffiti Terminators Representative Pat Di Lillo
Altamont Program Founder Father Young
Altamont Program Director of Work Release Clarence Carter
Altamont Program Director of Quality Care Lloyd Simmons
Altamont Program Public Information Officer Neil Kelly
Assemblywoman Catherine Nolan
Public Employees Federation Statewide Labor Management Chair David Stallone
Edgecombe Correctional Facility Correction Counselor Juan Matos
Fulton Correctional Facility Correction Counselor Fred Simmons

The testimony is currently being reviewed in conjunction with the impact of the changes to the work release program made in the 1994 budget. In cooperation with law enforcement authorities, we are working toward determining steps to be taken to balance and give priority to the essential need to protect the public and serve justice with the rehabilitative benefits of temporary release and the problem of prison overcrowding.

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ENACTED LEGISLATION

A. 9670/S. 7139	Chapter 47	Psychological Testing of Correction Officer Candidates
A. 168/S. 5227	Chapter 67	Crime Victims Information Pamphlet
S. 4508	Chapter 86	Citizen's Policy and Complaint Review Council
A. 7960/S. 2114	Chapter 110	Repeal of Prison Daily Record Requirement
S. 7445	Chapter 244	Crime Victims Compensation
S. 3294	Chapter 487	Use of Prison Commissaries
S. 5145-A	Chapter 503	Medical Parole Extension and Clarification
A. 376/S. 8269	Chapter 541	Use of the Onondaga County Jail Documentation

IMPORTANT BILLS

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S. 245-A	Passed Senate	Payment of Crime Victim Counseling Costs
S. 577	Passed Senate	Eligibility for Temporary Release
S. 1156	Passed Senate	Payment of Probation Fees
S. 1648	Passed Senate	Commingling Inmates during Emergency Overcrowding Conditions
S. 1898	Passed Senate	Parole Release of Inmates Subject to Deportation
S. 2115	Passed Senate	Retaking Absconders and Erroneously Released Inmates
S. 2288	Passed Senate	Correctional Facility Payment for Local Emergency Services
S. 2754	Passed Senate	College Tuition Loans to Inmates
S. 3284-A	Passed Senate	Active Parole Supervision
S. 3797	Passed Senate	DNA Testing of Convicted Sex Offenders
S. 3799	Passed Senate	Parole Board Statement Confidentiality

S. 4403	Passed Senate	Exclusion of Inmates from Crime Victim Compensation
S. 4659	Passed Senate	Availability of Child Abuse Reports
S. 5149	Passed Senate	Qualifications for Correction Officers
S. 5321	Passed Senate	Maintenance of Prisoners in County Jail
S. 6340	Passed Senate	Victim Impact Statement at Parole Hearings
S. 6388	Passed Senate	Right to Parole Information
S. 6552-A	Passed Senate	Sex Offender Registration Act
S. 6569	Passed Senate	Missing Children Crime Victim Claims
S. 7008-A	Passed Senate	Definition of a Crime Victim
S. 7447	Passed Senate	Conversion of Sentences
S. 7566	Passed Senate	Civil Action Against OMH Officers
S. 7567	Passed Senate	Inmate Possession of Unauthorized Money
S. 7725	Passed Senate	Fire & Ambulance Service Reimbursement