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REPORTS: Yes

Annual Report of the New Jersey Criminal Sentencing and Disposition Commission 2019
<https://hdl.handle.net/10929/57490>

Annual Report of the New Jersey Criminal Sentencing and Disposition Commission 2022
<https://hdl.handle.net/10929/111656>

HEARINGS: No

NEWSPAPER ARTICLES: Yes

"Criminal justice bills signed." The Times, (Trenton, NJ), October 22, 2020: 013.

RWH/CL

P.L. 2020, CHAPTER 106, *approved October 19, 2020*
Assembly, No. 2370 (*First Reprint*)

1 AN ACT concerning parole, supplementing Title 30 of the Revised
2 Statutes, ¹amending P.L.1967, c.43,¹ and repealing section 1 of
3 P.L.1997, c.214.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. a. Notwithstanding any provision of P.L.1979, c.441
9 (C.30:4-123.45 et seq.) to the contrary, the court may release an
10 inmate who qualifies under this section for compassionate release at
11 any time during the term of incarceration. An inmate granted
12 compassionate release pursuant to this section shall be subject to
13 custody, supervision, and conditions as provided in section 15 of
14 P.L.1979, c.441 (C.30:4-123.59) and shall be subject to sanctions
15 for a violation of a condition of compassionate release as if on
16 parole as provided in sections 16 through 21 of P.L.1979, c.441
17 (C.30:4-123.60 through 30:4-123.65).

18 b. The Commissioner of Corrections shall establish and
19 maintain a process by which an inmate may obtain a medical
20 diagnosis to determine whether the inmate is eligible for
21 compassionate release. The medical diagnosis shall be made by
22 two licensed physicians designated by the commissioner. The
23 diagnosis shall include, but not be limited to:

24 (1) a description of the terminal condition, disease or syndrome,
25 or permanent physical incapacity;

26 (2) a prognosis concerning the likelihood of recovery from the
27 terminal condition, disease or syndrome, or permanent physical
28 incapacity;

29 (3) a description of the inmate's physical incapacity, if
30 appropriate; and

31 (4) a description of the type of ongoing treatment that would be
32 required if the inmate is granted compassionate release.

33 c. A medical diagnosis to determine whether an inmate is
34 eligible for compassionate release under this section may be
35 initiated by the administrator, superintendent, or a staff member of a
36 correctional facility or, upon request, submitted to the
37 Commissioner of Corrections by the inmate, a member of the
38 inmate's family, or the inmate's attorney. The request shall be

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly AAP committee amendments adopted July 27, 2020.

1 submitted in a manner and form prescribed by the Commissioner of
2 Corrections.

3 d. (1) In the event that a medical diagnosis determines that an
4 inmate is suffering from a grave medical condition as defined in
5 subsection 1. of this section, the Department of Corrections shall
6 promptly notify the inmate's attorney or, if the inmate does not
7 have an attorney, the Public Defender, to initiate the process of
8 petitioning for compassionate release. ¹The petition shall not be
9 filed until a subsequent medical diagnosis determines that the
10 inmate is suffering from a terminal condition, disease or syndrome,
11 or a permanent physical incapacity as defined in subsection 1. of this
12 section and the Department of Corrections issues to the inmate a
13 Certificate of Eligibility for Compassionate Release.¹

14 (2) In the event that a medical diagnosis determines that an
15 inmate is suffering from a terminal condition, disease or syndrome,
16 or permanent physical incapacity as defined in subsection 1. of this
17 section, the Department of Corrections shall promptly issue to the
18 inmate a Certificate of Eligibility for Compassionate Release and
19 provide a copy of the certificate to the inmate's attorney or, if the
20 inmate does not have an attorney, the Public Defender. An inmate
21 who receives a Certificate of Eligibility for Compassionate Release
22 may petition the court for compassionate release.

23 (3) In the event of a medical diagnosis that an inmate is
24 suffering from a grave medical condition or upon issuance of a
25 Certificate of Eligibility for Compassionate Release, an inmate may
26 request representation from the Office of the Public Defender for
27 the purpose of filing a petition for compassionate release.

28 e. A ¹**["hearing on a"]** petition for compassionate release shall
29 be ¹**["held on an expedited basis in"]** filed with¹ the Superior Court
30 ¹**["in accordance with the Rules of Court"]**.

31 (1) ¹**["A"]** The petitioner shall serve a¹ copy of the petition
32 ¹**["shall be served"]** in accordance with the Rules of Court on the
33 county prosecutor who prosecuted the matter or, if the matter was
34 prosecuted by the Attorney General, the Attorney General.

35 (2) The county prosecutor or the Attorney General, as the case
36 may be, shall provide ¹**["a copy"]** notice¹ of the petition to any
37 victim or member of the family of a victim entitled to notice
38 relating to a parole or the consideration of a parole under the
39 provisions of P.L.1979, c.441 (C.30:4-123.45 et seq.), and shall
40 notify the victim or family member of the opportunity to present a
41 ¹**["written or videotaped"]** statement at the hearing on the petition or
42 to testify to the court concerning any harm suffered by the victim or
43 family member at the time of the hearing.

44 (3) Upon receipt of ¹notice of¹ the petition, the ¹**["county**
45 **prosecutor or Attorney General, as the case may be, and the"]**¹
46 victim or member of the family of the victim, as the case may be,
47 may submit any comments to the court within 15 days following

1 receipt of 'notice of' the petition¹, including but not limited to
2 advising the court of an intent to testify at the hearing¹.

3 (4) The information contained in the petition and the contents of
4 any comments submitted by a recipient in response thereto shall be
5 confidential and shall not be disclosed to any person who is not
6 authorized to receive or review the information or comments.

7 (5) If a recipient 'of a notice' of the petition does not submit
8 comments 'or advise the court of an intent to testify at the hearing'¹
9 within the 15-day period following receipt of the 'notice of the'
10 petition, the court may presume that the recipient does not wish to
11 submit comments and proceed with its consideration of the petition.

12 (6) The prosecutor shall have 15 days to respond to the petition,
13 '[and a hearing shall be held on an expedited basis after receipt of
14 any response] which period may be extended to 30 days for good
15 cause shown.

16 (7) If the court receives from the prosecutor a response
17 objecting to the petition or is notified that a victim or a family
18 member intends to testify to the court at the hearing, the court shall
19 hold a hearing on the petition on an expedited basis in accordance
20 with the Rules of Court and procedures established by the
21 Administrative Director of the Courts. If the court does not, within
22 the time frames established under this subsection, receive a
23 response from the prosecutor objecting to the petition and is not
24 notified of an intent for a victim or family member to testify, the
25 court may make a determination on the petition without holding a
26 hearing¹.

27 Notice given under the provisions of this subsection shall be in
28 lieu of any other notice of parole consideration required under
29 P.L.1979, c.441 (C.30:4-123.45 et seq.).

30 Nothing in this subsection shall be construed to impair the right
31 of any party to be heard pursuant to P.L.1979, c.441 (C.30:4-123.45
32 et seq.).

33 f. (1) Notwithstanding the provisions of subsection a. of
34 section 9 of P.L.1979, c.441 (C.30:4-123.53), the court may order
35 the compassionate release of an inmate who has been issued a
36 Certificate of Eligibility for Compassionate Release pursuant to
37 paragraph (2) of subsection d. of this section if the court finds by
38 clear and convincing evidence that the inmate is so debilitated or
39 incapacitated by the terminal condition, disease or syndrome, or
40 permanent physical incapacity as to be permanently physically
41 incapable of committing a crime if released and, in the case of a
42 permanent physical incapacity, the conditions established in
43 accordance with subsection h. of this section under which the
44 inmate would be released would not pose a threat to public safety.

45 (2) 'No petition for compassionate release may be submitted to
46 the court unless it is accompanied by a Certificate of Eligibility for
47 Compassionate Release pursuant to paragraph (2) of subsection d.

1 of this section.¹ The court may summarily dismiss a petition for
2 compassionate release if the petition is submitted without a
3 Certificate of Eligibility for Compassionate Release ¹【pursuant to
4 paragraph (2) of subsection d. of this section】¹.

5 (3) The court shall provide to the inmate¹【;】 and¹ the county
6 prosecutor or Attorney General, as the case may be¹【; and any
7 victim or member of a victim's family notified pursuant to
8 subsection e. of this section】¹, written notice of its decision setting
9 forth the reasons for granting or denying compassionate release¹,
10 and the county prosecutor or Attorney General, as the case may be,
11 shall notify any victim or member of a victim's family who
12 received notification pursuant to paragraph (2) of subsection e. of
13 this section of the outcome of the court's decision¹.

14 g. An order by the court granting a petition for compassionate
15 release shall not become final for 10 days in order to permit the
16 prosecution to appeal the court's order.

17 h. Whenever an inmate is granted compassionate release
18 pursuant to this section, the court shall require, as a condition
19 precedent to release, the State Parole Board to ensure that the
20 inmate's release plan includes:

21 (1) identification of a community sponsor;

22 (2) verification of the availability of appropriate medical
23 services sufficient to meet the treatment requirements identified
24 pursuant to paragraph (4) of subsection b. of this section; and

25 (3) verification of appropriate housing which may include, but
26 need not be limited to, a hospital, hospice, nursing home facility, or
27 other housing accommodation suitable to the inmate's medical
28 condition, disease or syndrome, or permanent physical incapacity.

29 The Commissioner of Corrections shall ensure that any inmate
30 who petitions for compassionate release is provided an opportunity
31 to apply, and is provided necessary assistance to complete the
32 application, for medical assistance benefits under the Medicaid
33 program established pursuant to P.L.1968, c.413 (C.30:4D-1 et
34 seq.) prior to any determination of ineligibility by the court as a
35 result of the inability to verify the availability of appropriate
36 medical services, as required pursuant to paragraph (2) of this
37 subsection.

38 i. In addition to any conditions imposed pursuant to section 15
39 of P.L.1979, c.441 (C.30:4-123.59), as a condition of
40 compassionate release, the State Parole Board may require an
41 inmate to submit to periodic medical diagnoses by a licensed
42 physician.

43 j. If, after review of a medical diagnosis required under the
44 provisions of subsection i. of this section, the State Parole Board
45 determines that a parolee granted compassionate release is no
46 longer so debilitated or incapacitated by a terminal condition,
47 disease or syndrome, or by a permanent physical incapacity as to be

1 physically incapable of committing a crime or, in the case of a
2 permanent physical incapacity, the parolee poses a threat to public
3 safety, the State Parole Board shall so notify the prosecutor, who
4 may¹ initiate proceedings to return the inmate to confinement in an
5 appropriate facility designated by the Commissioner of Corrections.

6 The prosecutor shall provide notice of the request to return the
7 parolee to confinement to the parolee and the parolee's attorney or,
8 if the parolee does not have an attorney, the Public Defender. The
9 parolee shall have 15 days after receipt of the notice to object to the
10 return to confinement, which period may be extended to 30 days for
11 good cause shown. If the Superior Court receives from the parolee
12 an objection to the request to return the parolee to confinement, the¹
13 court shall hold a hearing on an expedited basis in accordance with
14 the Rules of Court and procedures established by the Administrative
15 Director of the Courts¹ to determine whether the parolee should be
16 returned to confinement pursuant to this subsection. If the court
17 does not receive a timely objection to the return to confinement, the
18 court may make a determination on the request without holding a
19 hearing. The parolee shall be returned to confinement if the court
20 finds, by a preponderance of the evidence, that the parolee poses a
21 threat to public safety because the parolee is no longer debilitated or
22 incapacitated by a terminal condition, disease or syndrome, or by a
23 permanent physical incapacity.¹ Nothing in this subsection shall be
24 construed to limit the authority of the board, an appropriate board
25 panel, or parole officer of the State Parole Board to address a
26 violation of a condition of parole pursuant to sections 16 through 21
27 of P.L.1979, c.441 (C.30:4-123.60 through 30:4-123.65).

28 k. The denial of a petition for compassionate release or the
29 return of a parolee to confinement under the provisions of
30 subsection j. of this section shall not preclude an inmate from being
31 considered for parole, if eligible, pursuant to subsection a. of
32 section 7 of P.L.1979, c.441 (C.30:4-123.51).

33 l. For purposes of this section:

34 "Grave medical condition" means a prognosis by the licensed
35 physicians designated by the Commissioner of Corrections pursuant
36 to subsection b. of this section that an inmate has more than six
37 months but not more than 12 months to live or has a medical
38 condition that did not exist at the time of sentencing and for at least
39 three months has rendered the inmate unable to perform activities of
40 basic daily living, resulting in the inmate requiring 24-hour care.

41 "Terminal condition, disease or syndrome" means a prognosis by
42 the licensed physicians designated by the Commissioner of
43 Corrections pursuant to subsection b. of this section that an inmate
44 has six months or less to live.

45 "Permanent physical incapacity" means a prognosis by the
46 licensed physicians designated by the Commissioner of Corrections
47 pursuant to subsection b. of this section that an inmate has a

1 medical condition that renders the inmate permanently unable to
2 perform activities of basic daily living, results in the inmate
3 requiring 24-hour care, and did not exist at the time of sentencing.

4
5 ¹2. Section 5 of P.L.1967, c.43 (C.2A:158A-5) is amended to
6 read as follows:

7 It shall be the duty of the Public Defender to provide for the
8 legal representation of any indigent defendant who is formally
9 charged with the commission of an indictable offense.

10 All necessary services and facilities of representation (including
11 investigation and other preparation) shall be provided in every case.
12 The factors of need and real value to a defense may be weighed
13 against the financial constraints of the Public Defender's office in
14 determining what are the necessary services and facilities of
15 representation.

16 Representation as herein provided for shall include any direct
17 appeal from conviction and such post-conviction proceedings as
18 would warrant the assignment of counsel pursuant to the court rules.

19 Representation for indigent defendants (a) may be provided in
20 any federal court in any matter arising out of or relating to an action
21 pending or recently pending in a court of criminal jurisdiction of
22 this State and (b) may be provided in any federal court in this State
23 where indigent defendants are charged with the commission of a
24 federal criminal offense and where the representation is under a
25 plan adopted pursuant to the Criminal Justice Act of 1964
26 (18 U.S.C. s. 3006A).

27 The Public Defender also shall provide for the legal
28 representation of any eligible inmate who is serving a custodial
29 prison sentence and requests assistance in petitioning the Superior
30 Court for compassionate release in accordance with section 1 of
31 P.L. , c. (C.)(pending before the Legislature as this bill).¹
32 (cf: P.L.1987, c.170, s.2)

33
34 ¹[2.] 3.¹ Section 1 of P.L.1997, c.214 (C.30:4-123.51c) is
35 repealed.

36
37 ¹[3.] 4.¹ This act shall take effect on the first day of the fourth
38 month following enactment, provided however, that the
39 Commissioner of Corrections¹, State Parole Board, and
40 Administrative Director of the Courts¹ may take such anticipatory
41 action as deemed necessary to effectuate the provisions of this act.

42
43
44
45
46 Establishes compassionate release program for certain inmates;
47 repeals law that establishes medical parole.

ASSEMBLY, No. 2370

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED FEBRUARY 3, 2020

Sponsored by:

Assemblyman GARY S. SCHAER

District 36 (Bergen and Passaic)

Assemblywoman VERLINA REYNOLDS-JACKSON

District 15 (Hunterdon and Mercer)

Co-Sponsored by:

Assemblyman Caputo

SYNOPSIS

Establishes compassionate release program for certain inmates; repeals law that establishes medical parole.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 7/23/2020)

1 AN ACT concerning parole, supplementing Title 30 of the Revised
2 Statutes, and repealing section 1 of P.L.1997, c.214.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. a. Notwithstanding any provision of P.L.1979, c.441
8 (C.30:4-123.45 et seq.) to the contrary, the court may release an
9 inmate who qualifies under this section for compassionate release at
10 any time during the term of incarceration. An inmate granted
11 compassionate release pursuant to this section shall be subject to
12 custody, supervision, and conditions as provided in section 15 of
13 P.L.1979, c.441 (C.30:4-123.59) and shall be subject to sanctions
14 for a violation of a condition of compassionate release as if on
15 parole as provided in sections 16 through 21 of P.L.1979, c.441
16 (C.30:4-123.60 through 30:4-123.65).

17 b. The Commissioner of Corrections shall establish and
18 maintain a process by which an inmate may obtain a medical
19 diagnosis to determine whether the inmate is eligible for
20 compassionate release. The medical diagnosis shall be made by
21 two licensed physicians designated by the commissioner. The
22 diagnosis shall include, but not be limited to:

23 (1) a description of the terminal condition, disease or syndrome,
24 or permanent physical incapacity;

25 (2) a prognosis concerning the likelihood of recovery from the
26 terminal condition, disease or syndrome, or permanent physical
27 incapacity;

28 (3) a description of the inmate's physical incapacity, if
29 appropriate; and

30 (4) a description of the type of ongoing treatment that would be
31 required if the inmate is granted compassionate release.

32 c. A medical diagnosis to determine whether an inmate is
33 eligible for compassionate release under this section may be
34 initiated by the administrator, superintendent, or a staff member of a
35 correctional facility or, upon request, submitted to the
36 Commissioner of Corrections by the inmate, a member of the
37 inmate's family, or the inmate's attorney. The request shall be
38 submitted in a manner and form prescribed by the Commissioner of
39 Corrections.

40 d. (1) In the event that a medical diagnosis determines that an
41 inmate is suffering from a grave medical condition as defined in
42 subsection 1. of this section, the Department of Corrections shall
43 promptly notify the inmate's attorney or, if the inmate does not
44 have an attorney, the Public Defender, to initiate the process of
45 petitioning for compassionate release.

46 (2) In the event that a medical diagnosis determines that an
47 inmate is suffering from a terminal condition, disease or syndrome,
48 or permanent physical incapacity as defined in subsection 1. of this

1 section, the Department of Corrections shall promptly issue to the
2 inmate a Certificate of Eligibility for Compassionate Release and
3 provide a copy of the certificate to the inmate's attorney or, if the
4 inmate does not have an attorney, the Public Defender. An inmate
5 who receives a Certificate of Eligibility for Compassionate Release
6 may petition the court for compassionate release.

7 (3) In the event of a medical diagnosis that an inmate is
8 suffering from a grave medical condition or upon issuance of a
9 Certificate of Eligibility for Compassionate Release, an inmate may
10 request representation from the Office of the Public Defender for
11 the purpose of filing a petition for compassionate release.

12 e. A hearing on a petition for compassionate release shall be
13 held on an expedited basis in the Superior Court in accordance with
14 the Rules of Court.

15 (1) A copy of the petition shall be served in accordance with the
16 Rules of Court on the county prosecutor who prosecuted the matter
17 or, if the matter was prosecuted by the Attorney General, the
18 Attorney General.

19 (2) The county prosecutor or the Attorney General, as the case
20 may be, shall provide a copy of the petition to any victim or
21 member of the family of a victim entitled to notice relating to a
22 parole or the consideration of a parole under the provisions of
23 P.L.1979, c.441 (C.30:4-123.45 et seq.), and shall notify the victim
24 or family member of the opportunity to present a written or
25 videotaped statement at the hearing on the petition or to testify to
26 the court concerning any harm suffered by the victim or family
27 member at the time of the hearing.

28 (3) Upon receipt of the petition, the county prosecutor or
29 Attorney General, as the case may be, and the victim or member of
30 the family of the victim, as the case may be, may submit any
31 comments to the court within 15 days following receipt of the
32 petition.

33 (4) The information contained in the petition and the contents of
34 any comments submitted by a recipient in response thereto shall be
35 confidential and shall not be disclosed to any person who is not
36 authorized to receive or review the information or comments.

37 (5) If a recipient of the petition does not submit comments
38 within the 15-day period following receipt of the petition, the court
39 may presume that the recipient does not wish to submit comments
40 and proceed with its consideration of the petition.

41 (6) The prosecutor shall have 15 days to respond to the petition,
42 and a hearing shall be held on an expedited basis after receipt of
43 any response.

44 Notice given under the provisions of this subsection shall be in
45 lieu of any other notice of parole consideration required under
46 P.L.1979, c.441 (C.30:4-123.45 et seq.).

1 Nothing in this subsection shall be construed to impair the right
2 of any party to be heard pursuant to P.L.1979, c.441 (C.30:4-123.45
3 et seq.).

4 f. (1) Notwithstanding the provisions of subsection a. of
5 section 9 of P.L.1979, c.441 (C.30:4-123.53), the court may order
6 the compassionate release of an inmate who has been issued a
7 Certificate of Eligibility for Compassionate Release pursuant to
8 paragraph (2) of subsection d. of this section if the court finds by
9 clear and convincing evidence that the inmate is so debilitated or
10 incapacitated by the terminal condition, disease or syndrome, or
11 permanent physical incapacity as to be permanently physically
12 incapable of committing a crime if released and, in the case of a
13 permanent physical incapacity, the conditions established in
14 accordance with subsection h. of this section under which the
15 inmate would be released would not pose a threat to public safety.

16 (2) The court may summarily dismiss a petition for
17 compassionate release if the petition is submitted without a
18 Certificate of Eligibility for Compassionate Release pursuant to
19 paragraph (2) of subsection d. of this section.

20 (3) The court shall provide to the inmate; the county prosecutor
21 or Attorney General, as the case may be; and any victim or member
22 of a victim's family notified pursuant to subsection e. of this
23 section, written notice of its decision setting forth the reasons for
24 granting or denying compassionate release.

25 g. An order by the court granting a petition for compassionate
26 release shall not become final for 10 days in order to permit the
27 prosecution to appeal the court's order.

28 h. Whenever an inmate is granted compassionate release
29 pursuant to this section, the court shall require, as a condition
30 precedent to release, the State Parole Board to ensure that the
31 inmate's release plan includes:

32 (1) identification of a community sponsor;

33 (2) verification of the availability of appropriate medical
34 services sufficient to meet the treatment requirements identified
35 pursuant to paragraph (4) of subsection b. of this section; and

36 (3) verification of appropriate housing which may include, but
37 need not be limited to, a hospital, hospice, nursing home facility, or
38 other housing accommodation suitable to the inmate's medical
39 condition, disease or syndrome, or permanent physical incapacity.

40 The Commissioner of Corrections shall ensure that any inmate
41 who petitions for compassionate release is provided an opportunity
42 to apply, and is provided necessary assistance to complete the
43 application, for medical assistance benefits under the Medicaid
44 program established pursuant to P.L.1968, c.413 (C.30:4D-1 et
45 seq.) prior to any determination of ineligibility by the court as a
46 result of the inability to verify the availability of appropriate
47 medical services, as required pursuant to paragraph (2) of this
48 subsection.

1 i. In addition to any conditions imposed pursuant to section 15
2 of P.L.1979, c.441 (C.30:4-123.59), as a condition of
3 compassionate release, the State Parole Board may require an
4 inmate to submit to periodic medical diagnoses by a licensed
5 physician.

6 j. If, after review of a medical diagnosis required under the
7 provisions of subsection i. of this section, the State Parole Board
8 determines that a parolee granted compassionate release is no
9 longer so debilitated or incapacitated by a terminal condition,
10 disease or syndrome, or by a permanent physical incapacity as to be
11 physically incapable of committing a crime or, in the case of a
12 permanent physical incapacity, the parolee poses a threat to public
13 safety, the State Parole Board shall initiate proceedings to return the
14 inmate to confinement in an appropriate facility designated by the
15 Commissioner of Corrections.

16 The court shall hold a hearing on an expedited basis to determine
17 whether the parolee should be returned to confinement pursuant to
18 this subsection. Nothing in this subsection shall be construed to
19 limit the authority of the board, an appropriate board panel, or
20 parole officer of the State Parole Board to address a violation of a
21 condition of parole pursuant to sections 16 through 21 of P.L.1979,
22 c.441 (C.30:4-123.60 through 30:4-123.65).

23 k. The denial of a petition for compassionate release or the
24 return of a parolee to confinement under the provisions of
25 subsection j. of this section shall not preclude an inmate from being
26 considered for parole, if eligible, pursuant to subsection a. of
27 section 7 of P.L.1979, c.441 (C.30:4-123.51).

28 l. For purposes of this section:

29 "Grave medical condition" means a prognosis by the licensed
30 physicians designated by the Commissioner of Corrections pursuant
31 to subsection b. of this section that an inmate has more than six
32 months but not more than 12 months to live or has a medical
33 condition that did not exist at the time of sentencing and for at least
34 three months has rendered the inmate unable to perform activities of
35 basic daily living, resulting in the inmate requiring 24-hour care.

36 "Terminal condition, disease or syndrome" means a prognosis by
37 the licensed physicians designated by the Commissioner of
38 Corrections pursuant to subsection b. of this section that an inmate
39 has six months or less to live.

40 "Permanent physical incapacity" means a prognosis by the
41 licensed physicians designated by the Commissioner of Corrections
42 pursuant to subsection b. of this section that an inmate has a
43 medical condition that renders the inmate permanently unable to
44 perform activities of basic daily living, results in the inmate
45 requiring 24-hour care, and did not exist at the time of sentencing.

46

47 2. Section 1 of P.L.1997, c.214 (C.30:4-123.51c) is repealed.

1 This bill requires a hearing to be held on an expedited basis. In
2 addition, the county prosecutor or Attorney General is required to
3 provide a copy of the petition to any victim or family member who
4 is entitled to notice. The court is to provide a copy of its written
5 decision to the inmate, the county prosecutor or Attorney General,
6 and any victim or member of a victim's family who is to be
7 provided with notice.

8 If an inmate is granted compassionate release under the bill, the
9 court is required to ensure that the parole board has created a
10 release plan that includes: 1) identification of a community sponsor;
11 2) verification of the availability of appropriate medical services
12 sufficient to meet the inmate's treatment needs; and 3) verification
13 of appropriate housing.

14 The bill provides that the Commissioner of Corrections is to
15 ensure that the inmate is provided assistance in completing an
16 application for Medicaid benefits. The State Parole Board is to
17 initiate proceedings to return the inmate to confinement if he or she
18 is no longer debilitated by a terminal condition, disease or
19 syndrome, or permanent physical incapacity and, therefore, capable
20 of committing a crime.

21 Finally, this bill repeals the current medical parole law. Under
22 current law, an inmate suffering from a terminal condition or
23 permanent physical incapacity may be eligible for medical parole,
24 with the exception of inmates serving a sentence for certain crimes.
25 Under current law, a decision concerning the medical parole of an
26 inmate is conducted by the parole board.

ASSEMBLY LAW AND PUBLIC SAFETY COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2370

STATE OF NEW JERSEY

DATED: JULY 20, 2020

The Assembly Law and Public Safety Committee reports favorably Assembly Bill No. 2370.

As reported by the committee, Assembly Bill No. 2370 establishes compassionate release for certain inmates and repeals the current medical parole law.

Under the bill, a court may release an inmate who qualifies for compassionate release at any time if the inmate is found to be suffering from: 1) a grave medical condition; 2) a terminal condition, disease or syndrome; or 3) a permanent physical incapacity.

The bill defines “grave medical condition” to mean a prognosis that an inmate has more than six months but not more than 12 months to live or has a medical condition that did not exist at the time of sentencing that for at least three months has required the inmate to receive 24-hour care. The bill defines “terminal condition, disease or syndrome” to mean a prognosis that the inmate has six months or less to live. Finally, the bill defines “permanent physical incapacity” to mean a prognosis that an inmate has a medical condition that did not exist at the time of sentencing and renders the inmate permanently unable to perform activities of basic daily living, requiring 24-hour care.

The bill provides that the Department of Corrections (DOC) is to establish a process for an inmate to obtain a diagnosis from two licensed physicians to determine whether he or she is eligible for compassionate release. The diagnosis is required to include, but not be limited to:

- a description of the condition, disease or syndrome, or permanent physical incapacity;
- a prognosis concerning the likelihood of recovery, if appropriate;
- a description of the inmate’s physical incapacity; and
- a description of the type of ongoing treatment that would be required if the inmate is granted compassionate release.

If the inmate is diagnosed with a grave medical condition, under the bill, the inmate’s attorney or public defender may initiate the process of petitioning for compassionate release. If the inmate is diagnosed with a terminal condition, disease or syndrome, or permanent physical incapacity, the DOC is to provide the inmate and the inmate’s attorney or public defender with a Certificate of

Eligibility for Compassionate Release. The inmate may petition the Superior Court for compassionate release based on the certificate of eligibility.

The bill requires a hearing to be held on an expedited basis. In addition, the county prosecutor or Attorney General is required to provide a copy of the petition to any victim or family member who is entitled to notice. The court is to provide a copy of its written decision to the inmate, the county prosecutor or Attorney General, and any victim or member of a victim's family who is to be provided with notice.

If an inmate is granted compassionate release under the bill, the court is required to ensure that the parole board has created a release plan that includes: 1) identification of a community sponsor; 2) verification of the availability of appropriate medical services sufficient to meet the inmate's treatment needs; and 3) verification of appropriate housing.

The bill provides that the Commissioner of Corrections is to ensure that the inmate is provided assistance in completing an application for Medicaid benefits. The State Parole Board is to initiate proceedings to return the inmate to confinement if he or she is no longer debilitated by a terminal condition, disease or syndrome, or permanent physical incapacity and, therefore, capable of committing a crime.

Finally, the bill repeals the current medical parole law. Under current law, an inmate suffering from a terminal condition or permanent physical incapacity may be eligible for medical parole, with the exception of inmates serving a sentence for certain crimes. Under current law, a decision concerning the medical parole of an inmate is conducted by the parole board.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2370

with committee amendments

STATE OF NEW JERSEY

DATED: JULY 27, 2020

The Assembly Appropriations Committee reports favorably Assembly Bill No. 2370 with committee amendments.

As amended and reported by the committee, this bill establishes compassionate release for certain inmates and repeals the current medical parole law.

Under the amended bill, a court may release an inmate who qualifies for compassionate release at any time if the inmate is found to be suffering from: 1) a terminal condition, disease or syndrome; or 2) a permanent physical incapacity.

The amended bill defines “grave medical condition” to mean a prognosis that an inmate has more than six months but not more than 12 months to live or has a medical condition that did not exist at the time of sentencing and that for at least three months has required the inmate to receive 24-hour care. The bill defines “terminal condition, disease or syndrome” to mean a prognosis that the inmate has six months or less to live. Finally, the bill defines “permanent physical incapacity” to mean a prognosis that an inmate has a medical condition that did not exist at the time of sentencing and renders the inmate permanently unable to perform activities of basic daily living, requiring 24-hour care.

The amended bill provides that the Commissioner of Corrections is to establish a process for an inmate to obtain a diagnosis from two licensed physicians to determine whether the inmate is eligible for compassionate release. The diagnosis is required to include, but is not limited to:

- a description of the condition, disease or syndrome, or permanent physical incapacity;
- a prognosis concerning the likelihood of recovery, if appropriate;
- a description of the inmate’s physical incapacity; and
- a description of the type of ongoing treatment that would be required if the inmate is granted compassionate release.

Under the amended bill, in the event that a medical diagnosis determines that an inmate is suffering from a grave medical condition, the Department of Corrections is to promptly notify the inmate’s attorney or, if the inmate does not have an attorney, the

Public Defender, to initiate the process of petitioning for compassionate release. The petition cannot be filed until a subsequent medical diagnosis determines that the inmate is suffering from a terminal condition, disease or syndrome, or a permanent physical incapacity and the Department of Corrections issues to the inmate a Certificate of Eligibility for Compassionate Release.

The amended bill provides that if the inmate is diagnosed with a terminal condition, disease or syndrome, or permanent physical incapacity, the DOC is to provide the inmate and the inmate's attorney or public defender with a Certificate of Eligibility for Compassionate Release. The inmate may petition the Superior Court for compassionate release based on the certificate of eligibility.

In the event of a medical diagnosis that an inmate is suffering from a grave medical condition or upon issuance of a Certificate of Eligibility for Compassionate Release, the amended bill provides that an inmate may request representation from the Office of the Public Defender for the purpose of filing a petition for compassionate release.

Under the amended bill, the petition for compassionate release shall be filed with the Superior Court.

The amended bill provides that the petitioner is to serve a copy of the petition in accordance with the Rules of Court on the county prosecutor who prosecuted the matter or, if the matter was prosecuted by the Attorney General, the Attorney General.

Under the amended bill, the county prosecutor or the Attorney General, as the case may be, is to provide notice of the petition to any victim or member of the family of a victim entitled to notice relating to a parole or the consideration of a parole and is to notify the victim or family member of the opportunity to present a statement at the hearing on the petition or to testify to the court concerning any harm suffered by the victim or family member at the time of the hearing.

Upon receipt of notice of the petition, the amended bill provides that the victim or member of the family of the victim, as the case may be, may submit any comments to the court within 15 days following receipt of the petition.

Under the amended bill, the information contained in the petition and the contents of any comments submitted by a recipient in response thereto is to be confidential and is not to be disclosed to any person who is not authorized to receive or review the information or comments.

The amended bill provides that if a recipient of a notice of the petition does not submit comments or advise the court of an intent to testify at the hearing within the 15-day period following receipt of the notice of the petition, the court may presume that the recipient does not wish to submit comments and proceed with its consideration of the petition.

Under the amended bill, the prosecutor has 15 days to respond to the petition, which period may be extended to 30 days for good cause shown.

The amended bill provides that if the court receives from the prosecutor a response objecting to the petition or is notified that a victim or a family member intends to testify to the court at the hearing, the court is to hold a hearing on the petition on an expedited basis in accordance with the Rules of Court and procedures established by the Administrative Director of the Courts. If the court does not, within the time frames established under this subsection, receive a response from the prosecutor objecting to the petition and is not notified of an intent for a victim or family member to testify, the court may make a determination on the petition without holding a hearing.

Under the amended bill, the court may order the compassionate release of an inmate who has been issued a Certificate of Eligibility for Compassionate Release if the court finds by clear and convincing evidence that the inmate is so debilitated or incapacitated by the terminal condition, disease or syndrome, or permanent physical incapacity as to be permanently physically incapable of committing a crime if released and, in the case of a permanent physical incapacity, the conditions established under which the inmate would be released would not pose a threat to public safety.

The amended bill provides that no petition for compassionate release may be submitted to the court unless it is accompanied by a Certificate of Eligibility for Compassionate Release. The court may summarily dismiss a petition for compassionate release if the petition is submitted without a Certificate of Eligibility for Compassionate Release.

Under the amended bill, the court is to provide to the inmate and the county prosecutor or Attorney General, as the case may be, written notice of its decision setting forth the reasons for granting or denying compassionate release, and the county prosecutor or Attorney General, as the case may be, is to notify any victim or member of a victim's family who received notification of the outcome of the court's decision.

Whenever an inmate is granted compassionate release pursuant to this section, the amended bill provides that the court is to require, as a condition precedent to release, the State Parole Board to ensure that the inmate's release plan includes:

- identification of a community sponsor;
- verification of the availability of appropriate medical services sufficient to meet the treatment requirements identified; and
- verification of appropriate housing which may include, but need not be limited to, a hospital, hospice, nursing home facility, or other housing accommodation suitable to the

inmate's medical condition, disease or syndrome, or permanent physical incapacity.

Under the amended bill, the Commissioner of Corrections is to ensure that any inmate who petitions for compassionate release is provided an opportunity to apply, and is provided necessary assistance to complete the application, for medical assistance benefits under the Medicaid program, prior to any determination of ineligibility by the court as a result of the inability to verify the availability of appropriate medical services.

If, after review of a medical diagnosis, the State Parole Board determines that a parolee granted compassionate release is no longer so debilitated or incapacitated by a terminal condition, disease or syndrome, or by a permanent physical incapacity as to be physically incapable of committing a crime or, in the case of a permanent physical incapacity, the parolee poses a threat to public safety, the amended bill provides that the State Parole Board is to notify the prosecutor, who may initiate proceedings to return the inmate to confinement in an appropriate facility designated by the Commissioner of Corrections.

The amended bill requires the prosecutor to provide notice of the request to return the parolee to confinement to the parolee and the parolee's attorney or, if the parolee does not have an attorney, the Public Defender. The parolee is to have 15 days after receipt of the notice to object to the return to confinement, which period may be extended to 30 days for good cause shown. If the Superior Court receives from the parolee an objection to the request to return the parolee to confinement, the court is to hold a hearing on an expedited basis to determine whether the parolee should be returned to confinement pursuant to this bill. If the court does not receive a timely objection, the court may make a determination on the request without holding a hearing. The parolee is to be returned to confinement if the court finds, by a preponderance of the evidence, that the parolee is no longer so debilitated or incapacitated by a terminal condition, disease or syndrome, or by a permanent physical incapacity, the parolee poses a threat to public safety.

COMMITTEE AMENDMENTS

The committee amended the bill to:

(1) provide that only an inmate who receives a Certificate of Eligibility for Compassionate Release may petition the court for compassionate release;

(2) provide that an inmate diagnosed with a grave medical condition is ineligible to file a petition for compassionate release until a subsequent medical diagnosis determines that the inmate is suffering from a terminal condition, disease or syndrome, or a permanent physical incapacity;

(3) provide that the petitioner is to serve a copy of the petition on the prosecutor;

(4) provide that, upon receipt of notice of the petition, the victim or member of the family of the victim, has 15 days to advise the court of an intent to testify at the hearing;

(5) provide that the period for the prosecutor to respond to the petition may be extended to 30 days for good cause shown;

(6) provide that if the court receives a response from the prosecutor objecting to the petition or is notified that a victim or family member intends to testify, the court is to hold a hearing on an expedited basis in accordance with the Rules of Court and procedures established by the Administrative Director of the Courts;

(7) provide that if the court does not receive a response from the prosecutor or victim or family member, the court may make a determination on the petition without holding a hearing;

(8) provide that a petition for compassionate release may only be submitted to the court if it is accompanied by a Certificate of Eligibility;

(9) provide that the prosecutor is to notify any victim or family member of the victim who received notice of the outcome of the court's decision;

(10) require the prosecutor or Attorney General to provide notice of the petition, rather than a copy of the petition, to any victim or family member who is entitled to notice;

(11) require the State Parole Board to provide notice to the prosecutor of any changes in the inmate's medical condition and a copy of the relevant medical diagnosis;

(12) require the prosecutor is provide notice of the request to return the parolee to confinement to the parolee and the parolee's attorney or public defender;

(13) provide that the parolee is to have 15 days to respond after receipt of notice of a request to return the parolee to confinement, which may be extended to 30 days for good cause shown;

(14) provide that the court is to hold a hearing on an expedited basis if it receives an objection to the request to return the parolee to confinement from the parolee or, if the court does not receive an objection, it may make a determination without holding a hearing;

(15) establish that the court is to return a parolee to confinement if it finds by a preponderance of the evidence that the parolee is no longer so debilitated or incapacitated as to not pose a threat to public safety;

(16) provide that the Public Defender has the duty to provide for the legal representation of any eligible inmate who is serving a custodial prison sentence and requests assistance in petitioning the Superior Court for compassionate release in accordance with the provisions of the amended bill; and

(17) provide that, in addition to the Commissioner of Corrections, the State Parole Board and the Administrative Director of the Courts may take such anticipatory action prior to the effective date necessary to effectuate the provisions of this bill.

FISCAL IMPACT:

The Office of Legislative Services (OLS) concludes that the enactment of this bill will result in nominal cost savings to the State. The OLS lacks sufficient information to quantify the fiscal impact as there is no way to accurately project the number of inmates likely to suffer from a grave medical condition, terminal illness, or permanent physical incapacity so as to qualify for compassionate release in any given year. Overall, the savings, if any, are likely to be marginal due to a small number of inmates qualifying for compassionate release.

For every inmate qualifying for compassionate release with a prognosis of six to twelve months to live or a permanent physical incapacity, the Department of Corrections (DOC) would realize a modest reduction in expenditures. DOC data indicate that the marginal cost per day to provide inmates with food, wages, and clothing totals approximately \$8.60 per inmate. By releasing inmates six to twelve months prior to the end of their sentence, the bill would decrease department expenditures by approximately \$1,548 to \$3,096 per inmate. According to the DOC, on average there are forty deaths per year in State prisons. However, the DOC is unable to determine whether the deaths are due to any terminal condition. The DOC notes that very few patients are ever released before their death due to diseases such as terminal cancer, hepatic failure, end stage cardiac disease, end stage lung disease, AIDS, etc.

This bill repeals the medical parole law and therefore the State Parole Board (SPB) is likely to see a nominal reduction in annual expenditures due to a reduction in the number of inmates on parole. Under current law, a decision concerning the medical parole of an inmate is conducted by the parole board. Under the provisions of this bill, compassionate release will require the courts to decide on the release of qualified inmates. However, the SPB will be required to create a release plan for inmates granted compassionate release.

The Office of Public Defender would have to represent additional low-income defendants for the purposes of filing a petition for compassionate release and hence likely to incur an increase in caseload and expenditures. The State Judiciary may also incur an indeterminate nominal increase in operating expenditures due to increased caseload.

SENATE JUDICIARY COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 2370

STATE OF NEW JERSEY

DATED: AUGUST 24, 2020

The Senate Judiciary Committee reports favorably the First Reprint of Assembly Bill No. 2370.

This bill would create a compassionate release program based on Recommendation 7 of the first annual report of the New Jersey Criminal Sentencing and Disposition Commission (the CSDC), created by P.L.2009, c.81 (C.2C:48A-1 et seq.) but delayed in being constituted and actively reviewing the State's sentencing laws. The bill would specifically establish compassionate release, which could be granted any time during a term of incarceration, for certain inmates determined to be suffering from a medical affliction warranting release, based on a terminal condition, disease or syndrome, or permanent physical incapacity. The bill would also repeal the current medical parole law, per Recommendation 7, which would be replaced by the bill's compassionate release process.

The bill defines "terminal condition, disease or syndrome" as a prognosis that an affliction provides an inmate six months or less to live. The bill defines "permanent physical incapacity" as a prognosis that an affliction, which did not exist at the time of sentencing, has rendered an inmate permanently unable to perform activities of basic daily living, and requires 24-hour care.

Under the bill, the Commissioner of Corrections would establish a process for an inmate to obtain a diagnosis from two licensed physicians to determine whether the inmate is eligible for compassionate release. The diagnosis would be required to include, but would not be limited to:

- a description of the terminal condition, disease or syndrome, or permanent physical incapacity, and prognosis concerning the likelihood of recovering from that affliction; and
- a description of the type of ongoing treatment that would be required if the inmate is granted compassionate release.

In the event that the inmate was diagnosed with a terminal condition, disease or syndrome, or permanent physical incapacity by the two examining physicians, the DOC would promptly provide the inmate with a Certificate of Eligibility for Compassionate Release, and a copy of the certificate to the inmate's attorney, or the Public Defender, who can be requested to represent the inmate if the inmate

does not have an attorney. In the event that the medical diagnosis instead determines that an inmate is suffering from a “grave medical condition,” meaning a prognosis that an affliction provides an inmate more than six months but no more than 12 months to live, the Department of Corrections would promptly notify the inmate’s attorney or, if the inmate does not have an attorney, the Public Defender, to initiate the process of petitioning for compassionate release. However, a petition could not be filed for this inmate until a subsequent medical diagnosis determined that the inmate suffered from a terminal condition, disease or syndrome, or a permanent physical incapacity, and the Department of Corrections issued the certificate of eligibility to the inmate.

Once an inmate obtained the DOC’s certificate of eligibility, based either on an initial diagnosis or subsequent diagnosis, the inmate could file a petition for compassionate release in the Superior Court. The petitioning inmate would serve a copy of the petition in accordance with the Rules of Court on the county prosecutor who prosecuted the inmate or the Attorney General, if the inmate was prosecuted by the latter. The county prosecutor or Attorney General, as the case may be, would provide notice of the petition to any victim of the inmate’s offense or member of the family of a victim entitled to notice relating to the inmate’s parole, or the consideration of parole, and notify the victim or family member of the opportunity to present a statement at the hearing on the petition or to testify to the court concerning any harm suffered by the victim or family member. The victim or family member, as the case may be, would then have the opportunity to submit, within 15 days of being notified of the inmate’s petition, comments to the court. If a recipient of a petition notice did not submit comments or advise the court of an intent to testify at the hearing within the 15-day period, the court could presume that the recipient does not wish to submit comments.

A prosecutor would have 15 days to respond to the petition, but this period could be extended to 30 days for good cause shown. If the court received a response objecting to the petition, or is notified that a victim or family member intends to testify to the court at the hearing, the court would hold a hearing on the petition on an expedited basis in accordance with the Rules of Court and procedures established by the Administrative Director of the Courts. If the court did not receive any response from the prosecutor or notification of an intent for a victim or family member to testify, the court could make a determination on the petition without holding a hearing.

The court could order the compassionate release of an inmate if it finds by clear and convincing evidence that the inmate is so debilitated or incapacitated by the terminal condition, disease or syndrome, or permanent physical incapacity, as to be permanently physically incapable of committing a crime if released and, in the

case of a permanent physical incapacity, the conditions established under which the inmate would be released would not pose a threat to public safety. The court would provide the inmate and the county prosecutor or Attorney General, as the case may be, written notice of its decision setting forth the reasons for granting or denying compassionate release, and the county prosecutor or Attorney General would notify any previously noticed victim or member of a victim's family about the court's decision.

Whenever an inmate is granted compassionate release, the bill provides that the court require, as a condition precedent to release, that the State Parole Board ensure that the inmate's release plan includes:

- identification of a community sponsor;
- verification of the availability of appropriate medical services sufficient to meet the inmate's treatment requirements; and
- verification of appropriate housing which could include, but would not be limited to, a hospital, hospice, nursing home facility, or other housing accommodation suitable to the inmate's medical affliction.

With respect to verification of available medical services, the Commissioner of Corrections would be required to ensure, prior to any determination about such availability and a decision whether or not to grant compassionate release, that any inmate who petitions for release be provided an opportunity to apply, and be provided necessary assistance to complete an application, for medical assistance benefits under the Medicaid program.

A released inmate could, as a condition of release, be required to undergo periodic medical diagnoses by a licensed physician. If, after review of any such diagnosis, the State Parole Board determined that an inmate granted compassionate release is no longer so debilitated or incapacitated by a terminal condition, disease or syndrome, or by a permanent physical incapacity as to be physically incapable of committing a crime, or, in the case of a permanent physical incapacity, the former inmate poses a threat to public safety, the bill provides that the State Parole Board would notify the appropriate prosecutor, who could initiate proceedings to return the former inmate to confinement in an appropriate facility designated by the commissioner. The prosecutor would provide notice of a request to the Superior Court to return the former inmate to confinement to both that former inmate and the former inmate's attorney or, if the former inmate does not have an attorney, the Public Defender.

The former inmate would have 15 days to object after receipt of the notice of the return to confinement request, which period could be extended to 30 days for good cause shown. If the Superior Court receives an objection, the court would hold a hearing on an expedited basis to determine whether the former inmate should be returned to

confinement. If the court did not receive a timely objection, the court could make a determination on the request without holding a hearing. The former inmate would be returned to confinement if the court finds, by a preponderance of the evidence, that the former inmate poses a threat to public safety because the former inmate was no longer so debilitated or incapacitated by a terminal condition, disease or syndrome, or by a permanent physical incapacity.

This bill as reported is identical to Senate Bill No. 2594, as amended by the committee and also reported today.

LEGISLATIVE FISCAL ESTIMATE
ASSEMBLY, No. 2370
STATE OF NEW JERSEY
219th LEGISLATURE

DATED: JULY 24, 2020

SUMMARY

- Synopsis:** Establishes compassionate release program for certain inmates; repeals law that establishes medical parole.
- Type of Impact:** Annual expenditure decrease to the State General Fund.
- Agencies Affected:** Department of Corrections; State Parole Board; The Judiciary; Office of the Public Defender.

Office of Legislative Services Estimate

Fiscal Impact	Annual
State Expenditure Decrease	Indeterminate

- The Office of Legislative Services (OLS) concludes that the enactment of this bill will result in nominal cost savings to the State. The OLS lacks sufficient information to quantify the fiscal impact as there is no way to accurately project the number of inmates likely to suffer from a grave medical condition, terminal illness, or permanent physical incapacity so as to qualify for compassionate release in any given year. Overall, the savings, if any, are likely to be marginal due to a small number of inmates qualifying for compassionate release.
- For every inmate qualifying for compassionate release with a prognosis of six to twelve months to live or a permanent physical incapacity, the Department of Corrections (DOC) would realize a modest reduction in expenditures. DOC data indicate that the marginal cost per day to provide inmates with food, wages, and clothing totals approximately \$8.60 per inmate. By releasing inmates six to twelve months prior to the end of their sentence, the bill would decrease department expenditures by approximately \$1,548 to \$3,096 per inmate. According to the DOC, on average there are forty deaths per year in State prisons. However, the DOC is unable to determine whether the deaths are due to any terminal condition. The DOC notes that very few patients are ever released before their death due to diseases such as terminal cancer, hepatic failure, end stage cardiac disease, end stage lung disease, AIDS, etc.
- This bill repeals the medical parole law and therefore the State Parole Board (SPB) is likely to see a nominal reduction in annual expenditures due to a reduction in the number of inmates on parole. Under current law, a decision concerning the medical parole of an inmate is conducted by the parole board. Under the provisions of this bill, compassionate release will require the

courts to decide on the release of qualified inmates. However, the SPB will be required to create a release plan for inmates granted compassionate release.

- The Office of Public Defender would have to represent additional low-income defendants for the purposes of filing a petition for compassionate release and hence likely to incur an increase in caseload and expenditures. The State Judiciary may also incur an indeterminate nominal increase in operating expenditures due to increased caseload.

BILL DESCRIPTION

This bill establishes compassionate release for certain inmates and repeals the current medical parole law.

Under the bill, a court may release an inmate who qualifies for compassionate release at any time if the inmate is found to be suffering from: 1) a grave medical condition; 2) a terminal condition, disease or syndrome; or 3) a permanent physical incapacity, as defined in the bill.

The bill provides that the DOC is to establish a process for an inmate to obtain a diagnosis from two licensed physicians to determine whether he or she is eligible for compassionate release.

If the inmate is diagnosed with a grave medical condition, under the bill, the inmate's attorney or public defender may initiate the process of petitioning for compassionate release. If the inmate is diagnosed with a terminal condition, disease or syndrome, or permanent physical incapacity, the DOC is to provide the inmate and the inmate's attorney or public defender with a certificate of eligibility for compassionate release. The inmate may petition the Superior Court for compassionate release based on the certificate of eligibility.

This bill requires a hearing to be held on an expedited basis. In addition, the county prosecutor or Attorney General is required to provide a copy of the petition to any victim or family member who is entitled to notice. The court is to provide a copy of its written decision to the inmate, the county prosecutor or Attorney General, and any victim or member of a victim's family who is to be provided with notice.

If an inmate is granted compassionate release under the bill, the court is required to ensure that the parole board has created a release plan.

The bill provides that the Commissioner of Corrections is to ensure that the inmate is provided assistance in completing an application for Medicaid benefits. The State Parole Board is to initiate proceedings to return the inmate to confinement if he or she is no longer debilitated by a terminal condition, disease or syndrome, or permanent physical incapacity and, therefore, capable of committing a crime.

Finally, this bill repeals the current medical parole law. Under current law, an inmate suffering from a terminal condition or permanent physical incapacity may be eligible for medical parole. Under current law, a decision concerning the medical parole of an inmate is conducted by the parole board.

FISCAL ANALYSIS

EXECUTIVE BRANCH

The OLS has not received a formal fiscal note on this bill. However, upon request, the DOC has indicated to the OLS that the bill may not have a significant fiscal impact as "very few

patients are ever released before their death from their disease process (i.e., terminal cancer, hepatic failure, end stage cardiac disease, end stage lung disease, AIDS, etc.)” Furthermore, the DOC points out that not all patients referred to medical parole are approved due to the requirement of terminal diagnosis of less than six months to live and a permanent physical disability demonstrated by total need for skilled nursing care. These conditions have to be met for the consideration of compassionate release as well. According to the DOC, on average there are forty deaths per year in State prisons. However, the DOC is unable to determine whether the deaths are due to any terminal condition.

OFFICE OF LEGISLATIVE SERVICES

The OLS concludes that releasing inmates early from State prisons under a compassionate release program could marginally reduce annual DOC expenditures. Inmates found to be suffering from: 1) a grave medical condition; 2) a terminal condition, disease or syndrome; or 3) a permanent physical incapacity would qualify for compassionate release. The OLS is unable to quantify the exact fiscal impact due to insufficient information but concludes that this bill may result in nominal cost savings to the State.

The DOC previously indicated to the OLS that the average annual cost to house an inmate in a State prison facility totaled \$50,590 in FY 2019. But this amount would not accrue as State cost savings for each individual released unless the prison population declined by a number large enough for the DOC to lower bed space capacity, thereby reducing fixed costs. The department informed the OLS that if a single inmate had been diverted from State prison in FY 2019 without decreasing the number of bed spaces, the department would not have incurred marginal costs for food, wages, and clothing of \$8.74 per day, or \$3,190 for the fiscal year. According to the DOC, on average there are 40 deaths per year in State facilities. However, the DOC is unable to determine whether the deaths were due to any terminal condition. The DOC notes that very few patients are ever released before their death from their disease process (i.e., terminal cancer, hepatic failure, end stage cardiac disease, end stage lung disease, AIDS, etc.).

This bill repeals the medical parole law and therefore, the SPB is likely to see a nominal reduction in expenditures due to a reduction in the number of inmates on parole. Under current law, a decision concerning the medical parole of an inmate is conducted by the parole board. Under the provisions of this bill, compassionate release will require the courts to decide on the release of qualified inmates. The Judiciary and the Office of the Public Defender are likely to see a marginally increased caseload.

Section: *Judiciary*

Analyst: *Anuja Pande Joshi*
 Assistant Research Analyst

Approved: *Frank W. Haines III*
 Legislative Budget and Finance Officer

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

ASSEMBLY, No. 2370

STATE OF NEW JERSEY 219th LEGISLATURE

DATED: AUGUST 3, 2020

SUMMARY

- Synopsis:** Establishes compassionate release program for certain inmates; repeals law that establishes medical parole.
- Type of Impact:** Annual expenditure decrease to the State General Fund.
- Agencies Affected:** Department of Corrections; State Parole Board; The Judiciary; Office of the Public Defender.

Office of Legislative Services Estimate

Fiscal Impact	
State Expenditure Decrease	Indeterminate

- The Office of Legislative Services (OLS) concludes that the enactment of this bill will result in nominal cost savings to the State. The OLS lacks sufficient information to quantify the fiscal impact as there is no way to accurately project the number of inmates likely to suffer from terminal illness or permanent physical incapacity so as to qualify for compassionate release in any given year. Overall, the savings, if any, are likely to be marginal due to a small number of inmates qualifying for compassionate release.
- For every inmate qualifying for compassionate release with a prognosis of six to twelve months to live or a permanent physical incapacity, the Department of Corrections (DOC) would realize a modest reduction in expenditures. DOC data indicate that the marginal cost per day to provide inmates with food, wages, and clothing totals approximately \$8.60 per inmate. By releasing inmates six to twelve months prior to the end of their sentence, the bill would decrease department expenditures by approximately \$1,548 to \$3,096 per inmate. According to the DOC, on average there are forty deaths per year in State prisons. However, the DOC is unable to determine whether the deaths are due to any terminal condition. The DOC notes that very few patients are ever released before their death due to diseases such as terminal cancer, hepatic failure, end stage cardiac disease, end stage lung disease, AIDS, etc.
- This bill repeals the medical parole law and therefore the State Parole Board (SPB) is likely to see a nominal reduction in annual expenditures due to a reduction in the number of inmates on

parole. Under current law, a decision concerning the medical parole of an inmate is conducted by the parole board. Under the provisions of this bill, compassionate release will require the courts to decide on the release of qualified inmates. However, the SPB will be required to create a release plan for inmates granted compassionate release.

- The Office of Public Defender would have to represent additional low-income defendants for the purposes of filing a petition for compassionate release and hence likely to incur an increase in caseload and expenditures. The State Judiciary may also incur an indeterminate nominal increase in operating expenditures due to increased caseload.

BILL DESCRIPTION

This bill establishes compassionate release for certain inmates and repeals the current medical parole law.

Under the bill, a court may release an inmate who qualifies for compassionate release at any time if the inmate is found to be suffering from: 1) a terminal condition, disease or syndrome; or 2) a permanent physical incapacity.

The bill provides that the Commissioner of Corrections is to establish a process for an inmate to obtain a diagnosis from two licensed physicians to determine whether the inmate is eligible for compassionate release.

Under the bill, in the event that a medical diagnosis determines that an inmate is suffering from a grave medical condition, the Department of Corrections is to promptly notify the inmate's attorney or, if the inmate does not have an attorney, the Public Defender, to initiate the process of petitioning for compassionate release. The petition cannot be filed until a subsequent medical diagnosis determines that the inmate is suffering from a terminal condition, disease or syndrome, or a permanent physical incapacity and the Department of Corrections issues to the inmate a Certificate of Eligibility for Compassionate Release.

The bill provides that if the inmate is diagnosed with a terminal condition, disease or syndrome, or permanent physical incapacity, the DOC is to provide the inmate and the inmate's attorney or public defender with a Certificate of Eligibility for Compassionate Release. The inmate may petition the Superior Court for compassionate release based on the certificate of eligibility.

FISCAL ANALYSIS

EXECUTIVE BRANCH

The OLS has not received a formal fiscal note on this bill. However, upon request, the DOC has indicated to the OLS that the bill may not have a significant fiscal impact as "very few patients are ever released before their death from their disease process (i.e., terminal cancer, hepatic failure, end stage cardiac disease, end stage lung disease, AIDS, etc.)" Furthermore, the DOC points out that not all patients referred to medical parole are approved due to the requirement of terminal diagnosis of less than six months to live and a permanent physical disability demonstrated by total need for skilled nursing care. These conditions have to be met for the consideration of compassionate release as well. According to the DOC, on average there are forty deaths per year in State prisons. However, the DOC is unable to determine whether the deaths are due to any terminal condition.

OFFICE OF LEGISLATIVE SERVICES

The OLS concludes that releasing inmates early from State prisons under a compassionate release program could marginally reduce annual DOC expenditures. Inmates found to be suffering from a terminal condition, disease or syndrome or a permanent physical incapacity would qualify for compassionate release. The OLS is unable to quantify the exact fiscal impact due to insufficient information but concludes that this bill may result in nominal cost savings to the State.

The DOC previously indicated to the OLS that the average annual cost to house an inmate in a State prison facility totaled \$50,590 in FY 2019. However, this amount would not accrue as State cost savings for each individual released unless the prison population declined by a number large enough for the DOC to lower bed space capacity, thereby reducing its fixed costs. The department informed the OLS that if a single inmate had been diverted from State prison in FY 2019 without decreasing the number of bed spaces, the department would not have incurred marginal costs for food, wages, and clothing of \$8.74 per day, or \$3,190 for the fiscal year. According to the DOC, on average there are 40 deaths per year in State facilities. However, the DOC is unable to determine whether the deaths were due to any terminal condition. The DOC notes that very few patients are ever released before their death from their disease process (i.e., terminal cancer, hepatic failure, end stage cardiac disease, end stage lung disease, AIDS, etc.).

This bill repeals the medical parole law and therefore, the SPB is likely to see a nominal reduction in expenditures due to a reduction in the number of inmates on parole. Under current law, a decision concerning the medical parole of an inmate is conducted by the parole board. Under the provisions of this bill, compassionate release will require the courts to decide on the release of qualified inmates. The Judiciary and the Office of the Public Defender are likely to see a marginally increased caseload.

Section: Judiciary

Analyst: Anuja Pande Joshi
Assistant Research Analyst

Approved: Frank W. Haines III
Legislative Budget and Finance Officer

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

SENATE, No. 2594

STATE OF NEW JERSEY
219th LEGISLATURE

INTRODUCED JUNE 22, 2020

Sponsored by:

Senator SANDRA B. CUNNINGHAM
District 31 (Hudson)

Co-Sponsored by:

Senator Scutari

SYNOPSIS

Establishes compassionate release program for certain inmates; repeals law that establishes medical parole.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 8/25/2020)

S2594 CUNNINGHAM

2

1 **AN ACT** concerning parole, supplementing Title 30 of the Revised
2 Statutes, and repealing section 1 of P.L.1997, c.214.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. a. Notwithstanding any provision of P.L.1979, c.441
8 (C.30:4-123.45 et seq.) to the contrary, the court may release an
9 inmate who qualifies under this section for compassionate release at
10 any time during the term of incarceration. An inmate granted
11 compassionate release pursuant to this section shall be subject to
12 custody, supervision, and conditions as provided in section 15 of
13 P.L.1979, c.441 (C.30:4-123.59) and shall be subject to sanctions
14 for a violation of a condition of compassionate release as if on
15 parole as provided in sections 16 through 21 of P.L.1979, c.441
16 (C.30:4-123.60 through 30:4-123.65).

17 b. The Commissioner of Corrections shall establish and
18 maintain a process by which an inmate may obtain a medical
19 diagnosis to determine whether the inmate is eligible for
20 compassionate release. The medical diagnosis shall be made by
21 two licensed physicians designated by the commissioner. The
22 diagnosis shall include, but not be limited to:

23 (1) a description of the terminal condition, disease or syndrome,
24 or permanent physical incapacity;

25 (2) a prognosis concerning the likelihood of recovery from the
26 terminal condition, disease or syndrome, or permanent physical
27 incapacity;

28 (3) a description of the inmate's physical incapacity, if
29 appropriate; and

30 (4) a description of the type of ongoing treatment that would be
31 required if the inmate is granted compassionate release.

32 c. A medical diagnosis to determine whether an inmate is
33 eligible for compassionate release under this section may be
34 initiated by the administrator, superintendent, or a staff member of a
35 correctional facility or, upon request, submitted to the
36 Commissioner of Corrections by the inmate, a member of the
37 inmate's family, or the inmate's attorney. The request shall be
38 submitted in a manner and form prescribed by the Commissioner of
39 Corrections.

40 d. (1) In the event that a medical diagnosis determines that an
41 inmate is suffering from a grave medical condition as defined in
42 subsection 1. of this section, the Department of Corrections shall
43 promptly notify the inmate's attorney or, if the inmate does not
44 have an attorney, the Public Defender, to initiate the process of
45 petitioning for compassionate release.

46 (2) In the event that a medical diagnosis determines that an
47 inmate is suffering from a terminal condition, disease or syndrome,

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1 or permanent physical incapacity as defined in subsection 1. of this
2 section, the Department of Corrections shall promptly issue to the
3 inmate a Certificate of Eligibility for Compassionate Release and
4 provide a copy of the certificate to the inmate's attorney or, if the
5 inmate does not have an attorney, the Public Defender. An inmate
6 who receives a Certificate of Eligibility for Compassionate Release
7 may petition the court for compassionate release.

8 (3) In the event of a medical diagnosis that an inmate is
9 suffering from a grave medical condition or upon issuance of a
10 Certificate of Eligibility for Compassionate Release, an inmate may
11 request representation from the Office of the Public Defender for
12 the purpose of filing a petition for compassionate release.

13 e. A hearing on a petition for compassionate release shall be
14 held on an expedited basis in the Superior Court in accordance with
15 the Rules of Court.

16 (1) A copy of the petition shall be served in accordance with the
17 Rules of Court on the county prosecutor who prosecuted the matter
18 or, if the matter was prosecuted by the Attorney General, the
19 Attorney General.

20 (2) The county prosecutor or the Attorney General, as the case
21 may be, shall provide a copy of the petition to any victim or
22 member of the family of a victim entitled to notice relating to a
23 parole or the consideration of a parole under the provisions of
24 P.L.1979, c.441 (C.30:4-123.45 et seq.), and shall notify the victim
25 or family member of the opportunity to present a written or
26 videotaped statement at the hearing on the petition or to testify to
27 the court concerning any harm suffered by the victim or family
28 member at the time of the hearing.

29 (3) Upon receipt of the petition, the county prosecutor or
30 Attorney General, as the case may be, and the victim or member of
31 the family of the victim, as the case may be, may submit any
32 comments to the court within 15 days following receipt of the
33 petition.

34 (4) The information contained in the petition and the contents of
35 any comments submitted by a recipient in response thereto shall be
36 confidential and shall not be disclosed to any person who is not
37 authorized to receive or review the information or comments.

38 (5) If a recipient of the petition does not submit comments
39 within the 15-day period following receipt of the petition, the court
40 may presume that the recipient does not wish to submit comments
41 and proceed with its consideration of the petition.

42 (6) The prosecutor shall have 15 days to respond to the petition,
43 and a hearing shall be held on an expedited basis after receipt of
44 any response.

45 Notice given under the provisions of this subsection shall be in
46 lieu of any other notice of parole consideration required under
47 P.L.1979, c.441 (C.30:4-123.45 et seq.).

1 Nothing in this subsection shall be construed to impair the right
2 of any party to be heard pursuant to P.L.1979, c.441 (C.30:4-123.45
3 et seq.).

4 f. (1) Notwithstanding the provisions of subsection a. of
5 section 9 of P.L.1979, c.441 (C.30:4-123.53), the court may order
6 the compassionate release of an inmate who has been issued a
7 Certificate of Eligibility for Compassionate Release pursuant to
8 paragraph (2) of subsection d. of this section if the court finds by
9 clear and convincing evidence that the inmate is so debilitated or
10 incapacitated by the terminal condition, disease or syndrome, or
11 permanent physical incapacity as to be permanently physically
12 incapable of committing a crime if released and, in the case of a
13 permanent physical incapacity, the conditions established in
14 accordance with subsection h. of this section under which the
15 inmate would be released would not pose a threat to public safety.

16 (2) The court may summarily dismiss a petition for
17 compassionate release if the petition is submitted without a
18 Certificate of Eligibility for Compassionate Release pursuant to
19 paragraph (2) of subsection d. of this section.

20 (3) The court shall provide to the inmate; the county prosecutor
21 or Attorney General, as the case may be; and any victim or member
22 of a victim's family notified pursuant to subsection e. of this
23 section, written notice of its decision setting forth the reasons for
24 granting or denying compassionate release.

25 g. An order by the court granting a petition for compassionate
26 release shall not become final for 10 days in order to permit the
27 prosecution to appeal the court's order.

28 h. Whenever an inmate is granted compassionate release
29 pursuant to this section, the court shall require, as a condition
30 precedent to release, the State Parole Board to ensure that the
31 inmate's release plan includes:

32 (1) identification of a community sponsor;

33 (2) verification of the availability of appropriate medical
34 services sufficient to meet the treatment requirements identified
35 pursuant to paragraph (4) of subsection b. of this section; and

36 (3) verification of appropriate housing which may include, but
37 need not be limited to, a hospital, hospice, nursing home facility, or
38 other housing accommodation suitable to the inmate's medical
39 condition, disease or syndrome, or permanent physical incapacity.

40 The Commissioner of Corrections shall ensure that any inmate
41 who petitions for compassionate release is provided an opportunity
42 to apply, and is provided necessary assistance to complete the
43 application, for medical assistance benefits under the Medicaid
44 program established pursuant to P.L.1968, c.413 (C.30:4D-
45 1 et seq.) prior to any determination of ineligibility by the court as a
46 result of the inability to verify the availability of appropriate

1 medical services, as required pursuant to paragraph (2) of this
2 subsection.

3 i. In addition to any conditions imposed pursuant to section 15
4 of P.L.1979, c.441 (C.30:4-123.59), as a condition of
5 compassionate release, the State Parole Board may require an
6 inmate to submit to periodic medical diagnoses by a licensed
7 physician.

8 j. If, after review of a medical diagnosis required under the
9 provisions of subsection i. of this section, the State Parole Board
10 determines that a parolee granted compassionate release is no
11 longer so debilitated or incapacitated by a terminal condition,
12 disease or syndrome, or by a permanent physical incapacity as to be
13 physically incapable of committing a crime or, in the case of a
14 permanent physical incapacity, the parolee poses a threat to public
15 safety, the State Parole Board shall initiate proceedings to return the
16 inmate to confinement in an appropriate facility designated by the
17 Commissioner of Corrections.

18 The court shall hold a hearing on an expedited basis to determine
19 whether the parolee should be returned to confinement pursuant to
20 this subsection. Nothing in this subsection shall be construed to
21 limit the authority of the board, an appropriate board panel, or
22 parole officer of the State Parole Board to address a violation of a
23 condition of parole pursuant to sections 16 through 21 of P.L.1979,
24 c.441 (C.30:4-123.60 through 30:4-123.65).

25 k. The denial of a petition for compassionate release or the
26 return of a parolee to confinement under the provisions of
27 subsection j. of this section shall not preclude an inmate from being
28 considered for parole, if eligible, pursuant to subsection a. of
29 section 7 of P.L.1979, c.441 (C.30:4-123.51).

30 l. For purposes of this section:

31 “Grave medical condition” means a prognosis by the licensed
32 physicians designated by the Commissioner of Corrections pursuant
33 to subsection b. of this section that an inmate has more than six
34 months but not more than 12 months to live or has a medical
35 condition that did not exist at the time of sentencing and for at least
36 three months has rendered the inmate unable to perform activities of
37 basic daily living, resulting in the inmate requiring 24-hour care.

38 “Terminal condition, disease or syndrome” means a prognosis by
39 the licensed physicians designated by the Commissioner of
40 Corrections pursuant to subsection b. of this section that an inmate
41 has six months or less to live.

42 “Permanent physical incapacity” means a prognosis by the
43 licensed physicians designated by the Commissioner of Corrections
44 pursuant to subsection b. of this section that an inmate has a
45 medical condition that renders the inmate permanently unable to
46 perform activities of basic daily living, results in the inmate
47 requiring 24-hour care, and did not exist at the time of sentencing.

1 2. Section 1 of P.L.1997, c.214 (C.30:4-123.51c) is repealed.

2

3 3. This act shall take effect on the first day of the fourth month
4 following enactment, provided however, that the Commissioner of
5 Corrections may take such anticipatory action as deemed necessary
6 to effectuate the provisions of this act.

7

8

9

STATEMENT

10

11 This bill establishes compassionate release for certain inmates
12 and repeals the current medical parole law.

13 Under the bill, a court may release an inmate who qualifies for
14 compassionate release at any time if the inmate is found to be
15 suffering from: 1) a grave medical condition; 2) a terminal
16 condition, disease or syndrome; or 3) a permanent physical
17 incapacity.

18 The bill defines “grave medical condition” to mean a prognosis
19 that an inmate has more than six months but not more than 12
20 months to live or has a medical condition that did not exist at the
21 time of sentencing that for at least three months has required the
22 inmate to receive 24 hour care. The bill defines “terminal
23 condition, disease or syndrome” to mean a prognosis that the inmate
24 has six months or less to live. Finally, the bill defines “permanent
25 physical incapacity” to mean a prognosis that an inmate has a
26 medical condition that did not exist at the time of sentencing and
27 renders him or her permanently unable to perform activities of basic
28 daily living, requiring 24-hour care.

29 The bill provides that the Department of Corrections (DOC) is to
30 establish a process for an inmate to obtain a diagnosis from two
31 licensed physicians to determine whether he or she is eligible for
32 compassionate release. The diagnosis is required to include, but is
33 not limited to:

- 34 • a description of the condition, disease or syndrome, or
35 permanent physical incapacity;
36 • a prognosis concerning the likelihood of recovery, if
37 appropriate;
38 • a description of the inmate’s physical incapacity; and
39 • a description of the type of ongoing treatment that would be
40 required if the inmate is granted compassionate release.

41 If the inmate is diagnosed with a grave medical condition, under
42 the bill, the inmate’s attorney or public defender may initiate the
43 process of petitioning for compassionate release. If the inmate is
44 diagnosed with a terminal condition, disease or syndrome, or
45 permanent physical incapacity, the DOC is to provide the inmate
46 and the inmate’s attorney or public defender with a certificate of
47 eligibility for compassionate release. The inmate may petition the

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1 Superior Court for compassionate release based on the certificate of
2 eligibility.

3 This bill requires a hearing to be held on an expedited basis. In
4 addition, the county prosecutor or Attorney General is required to
5 provide a copy of the petition to any victim or family member who
6 is entitled to notice. The court is to provide a copy of its written
7 decision to the inmate, the county prosecutor or Attorney General,
8 and any victim or member of a victim's family who is to be
9 provided with notice.

10 If an inmate is granted compassionate release under the bill, the
11 court is required to ensure that the parole board has created a
12 release plan that includes: 1) identification of a community sponsor;
13 2) verification of the availability of appropriate medical services
14 sufficient to meet the inmate's treatment needs; and 3) verification
15 of appropriate housing.

16 The bill provides that the Commissioner of Corrections is to
17 ensure that the inmate is provided assistance in completing an
18 application for Medicaid benefits. The State Parole Board is to
19 initiate proceedings to return the inmate to confinement if he or she
20 is no longer debilitated by a terminal condition, disease or
21 syndrome, or permanent physical incapacity and, therefore, capable
22 of committing a crime.

23 Finally, this bill repeals the current medical parole law. Under
24 current law, an inmate suffering from a terminal condition or
25 permanent physical incapacity may be eligible for medical parole,
26 with the exception of inmates serving a sentence for certain crimes.
27 Under current law, a decision concerning the medical parole of an
28 inmate is conducted by the parole board.

SENATE JUDICIARY COMMITTEE

STATEMENT TO

SENATE, No. 2594

with committee amendments

STATE OF NEW JERSEY

DATED: AUGUST 24, 2020

The Senate Judiciary Committee reports favorably and with committee amendments Senate Bill No. 2594.

This bill, as amended, would create a compassionate release program based on Recommendation 7 of the first annual report of the New Jersey Criminal Sentencing and Disposition Commission (the CSDC), created by P.L.2009, c.81 (C.2C:48A-1 et seq.) but delayed in being constituted and actively reviewing the State's sentencing laws. The bill would specifically establish compassionate release, which could be granted any time during a term of incarceration, for certain inmates determined to be suffering from a medical affliction warranting release, based on a terminal condition, disease or syndrome, or permanent physical incapacity. The bill would also repeal the current medical parole law, per Recommendation 7, which would be replaced by the bill's compassionate release process.

The bill defines "terminal condition, disease or syndrome" as a prognosis that an affliction provides an inmate six months or less to live. The bill defines "permanent physical incapacity" as a prognosis that an affliction, which did not exist at the time of sentencing, has rendered an inmate permanently unable to perform activities of basic daily living, and requires 24-hour care.

Under the bill, the Commissioner of Corrections would establish a process for an inmate to obtain a diagnosis from two licensed physicians to determine whether the inmate is eligible for compassionate release. The diagnosis would be required to include, but would not be limited to:

- a description of the terminal condition, disease or syndrome, or permanent physical incapacity, and prognosis concerning the likelihood of recovering from that affliction; and
- a description of the type of ongoing treatment that would be required if the inmate is granted compassionate release.

In the event that the inmate was diagnosed with a terminal condition, disease or syndrome, or permanent physical incapacity by the two examining physicians, the DOC would promptly provide the inmate with a Certificate of Eligibility for Compassionate Release, and a copy of the certificate to the inmate's attorney, or the Public Defender, who can be requested to represent the inmate if the inmate

does not have an attorney. In the event that the medical diagnosis instead determines that an inmate is suffering from a “grave medical condition,” meaning a prognosis that an affliction provides an inmate more than six months but no more than 12 months to live, the Department of Corrections would promptly notify the inmate’s attorney or, if the inmate does not have an attorney, the Public Defender, to initiate the process of petitioning for compassionate release. However, a petition could not be filed for this inmate until a subsequent medical diagnosis determined that the inmate suffered from a terminal condition, disease or syndrome, or a permanent physical incapacity, and the Department of Corrections issued the certificate of eligibility to the inmate.

Once an inmate obtained the DOC’s certificate of eligibility, based either on an initial diagnosis or subsequent diagnosis, the inmate could file a petition for compassionate release in the Superior Court. The petitioning inmate would serve a copy of the petition in accordance with the Rules of Court on the county prosecutor who prosecuted the inmate or the Attorney General, if the inmate was prosecuted by the latter. The county prosecutor or Attorney General, as the case may be, would provide notice of the petition to any victim of the inmate’s offense or member of the family of a victim entitled to notice relating to the inmate’s parole, or the consideration of parole, and notify the victim or family member of the opportunity to present a statement at the hearing on the petition or to testify to the court concerning any harm suffered by the victim or family member. The victim or family member, as the case may be, would then have the opportunity to submit, within 15 days of being notified of the inmate’s petition, comments to the court. If a recipient of a petition notice did not submit comments or advise the court of an intent to testify at the hearing within the 15-day period, the court could presume that the recipient does not wish to submit comments.

A prosecutor would have 15 days to respond to the petition, but this period could be extended to 30 days for good cause shown. If the court received a response objecting to the petition, or is notified that a victim or family member intends to testify to the court at the hearing, the court would hold a hearing on the petition on an expedited basis in accordance with the Rules of Court and procedures established by the Administrative Director of the Courts. If the court did not receive any response from the prosecutor or notification of an intent for a victim or family member to testify, the court could make a determination on the petition without holding a hearing.

The court could order the compassionate release of an inmate if it finds by clear and convincing evidence that the inmate is so debilitated or incapacitated by the terminal condition, disease or syndrome, or permanent physical incapacity, as to be permanently physically incapable of committing a crime if released and, in the

case of a permanent physical incapacity, the conditions established under which the inmate would be released would not pose a threat to public safety. The court would provide the inmate and the county prosecutor or Attorney General, as the case may be, written notice of its decision setting forth the reasons for granting or denying compassionate release, and the county prosecutor or Attorney General would notify any previously noticed victim or member of a victim's family about the court's decision.

Whenever an inmate is granted compassionate release, the bill provides that the court require, as a condition precedent to release, that the State Parole Board ensure that the inmate's release plan includes:

- identification of a community sponsor;
- verification of the availability of appropriate medical services sufficient to meet the inmate's treatment requirements; and
- verification of appropriate housing which could include, but would not be limited to, a hospital, hospice, nursing home facility, or other housing accommodation suitable to the inmate's medical affliction.

With respect to verification of available medical services, the Commissioner of Corrections would be required to ensure, prior to any determination about such availability and a decision whether or not to grant compassionate release, that any inmate who petitions for release be provided an opportunity to apply, and be provided necessary assistance to complete an application, for medical assistance benefits under the Medicaid program.

A released inmate could, as a condition of release, be required to undergo periodic medical diagnoses by a licensed physician. If, after review of any such diagnosis, the State Parole Board determined that an inmate granted compassionate release is no longer so debilitated or incapacitated by a terminal condition, disease or syndrome, or by a permanent physical incapacity as to be physically incapable of committing a crime, or, in the case of a permanent physical incapacity, the former inmate poses a threat to public safety, the bill provides that the State Parole Board would notify the appropriate prosecutor, who could initiate proceedings to return the former inmate to confinement in an appropriate facility designated by the commissioner. The prosecutor would provide notice of a request to the Superior Court to return the former inmate to confinement to both that former inmate and the former inmate's attorney or, if the former inmate does not have an attorney, the Public Defender.

The former inmate would have 15 days to object after receipt of the notice of the return to confinement request, which period could be extended to 30 days for good cause shown. If the Superior Court receives an objection, the court would hold a hearing on an expedited basis to determine whether the former inmate should be returned to

confinement. If the court did not receive a timely objection, the court could make a determination on the request without holding a hearing. The former inmate would be returned to confinement if the court finds, by a preponderance of the evidence, that the former inmate poses a threat to public safety because the former inmate was no longer so debilitated or incapacitated by a terminal condition, disease or syndrome, or by a permanent physical incapacity.

This bill, as amended and reported by the committee, is identical to the First Reprint of Assembly Bill No. 2370, also reported by the committee today.

The committee amendments to the bill:

- clarify that an inmate initially diagnosed with a “grave medical condition” as described in the statement above, could only move to file a petition for compassionate release following a subsequent diagnosis showing a terminal condition, disease or syndrome, or a permanent physical incapacity, and issuance of the DOC’s certificate of eligibility, as well as clarify the authority of a court to dismiss a petition if it is not accompanied by this certificate;

- revise the procedures for the county prosecutor, or Attorney General, as the case may be, to give notice of a petition for compassionate release to a victim or family member, as described in the statement above;

- expressly provide a victim or family member the opportunity to advise a court of an intent to testify at a hearing on release, and to testify at such hearing, which would be scheduled on an expedited basis in accordance with the Rules of Court and procedures established by the Administrative Director of the Courts;

- permit a county prosecutor or Attorney General to have an extended period of up to 30 days to respond to an inmate’s petition based on good cause shown;

- authorize a court to make a determination on a petition without holding a hearing if no objection to the petition is filed, and there is no notification that a victim or family member intends to testify;

- require that the county prosecutor or Attorney General advise any victim or family member of the court’s decision to grant or deny compassionate release;

- provide that a prosecutor, after notice from the State Parole Board, and not the board itself, would be authorized to initiate proceedings to return a former inmate to confinement in an appropriate facility, as well as the specified steps for the prosecutor to give notice of a request to return a former inmate to confinement, the timeframe for objecting to such a request, and the standard of proof to determine whether a former inmate would be returned to confinement, as described in the statement above;

- update the existing duties of the Public Defender to include representation of an inmate who requests assistance to petition the Superior Court for compassionate release; and
- expressly allow the State Parole Board and the Administrative Director of the Courts, in addition to the Commissioner of Corrections, the ability to take any anticipatory administrative action in advance of the bill taking effect (the first day of the fourth month following enactment) to effectuate the bill's provisions once effective.

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

SENATE, No. 2594 STATE OF NEW JERSEY 219th LEGISLATURE

DATED: AUGUST 31, 2020

SUMMARY

- Synopsis:** Establishes compassionate release program for certain inmates; repeals law that establishes medical parole.
- Type of Impact:** Indeterminate Net Impact to the State.
- Agencies Affected:** Department of Corrections; State Parole Board; The Judiciary; Office of the Public Defender.

Office of Legislative Services Estimate

Fiscal Impact	<u>Annual</u>
State Expenditures	Indeterminate Net Impact

- The Office of Legislative Services (OLS) estimates that the enactment of this bill may result in cost savings to the Department of Corrections (DOC) and the State Parole Board (SPB), and an increase in costs incurred by the Judiciary and the Office of the Public Defender. The OLS cannot determine the net effect to the State.
- The OLS lacks sufficient information to quantify the fiscal impact as there is no way to accurately project the number of inmates likely to suffer from terminal illness or permanent physical incapacity so as to qualify for compassionate release in any given year.
- For every inmate qualifying for compassionate release with a prognosis of six to twelve months to live or a permanent physical incapacity, the DOC would realize a modest reduction in expenditures. DOC data indicate that the marginal cost per day to provide inmates with food, wages, and clothing totals approximately \$8.60 per inmate. By releasing inmates six to twelve months prior to the end of their sentence, the bill would decrease department expenditures by approximately \$1,548 to \$3,096 per inmate. According to the DOC, on average there are 40 deaths per year in State prisons. However, the DOC is unable to determine whether the deaths are due to any terminal condition. The DOC notes that very few patients are ever released before their death due to a terminal disease.

- This bill repeals the medical parole law, and therefore the SPB is likely to see a nominal reduction in annual expenditures due to a reduction in the number of inmates on parole. Under current law, a decision concerning the medical parole of an inmate is conducted by the parole board. Under the provisions of this bill, compassionate release will require the courts to decide on the release of qualified inmates. However, the SPB will be required to create a release plan for inmates granted compassionate release.
- The Office of Public Defender would have to represent additional low-income defendants for the purposes of filing a petition for compassionate release and hence likely to incur an increase in caseload and expenditures. The Judiciary may also incur an indeterminate nominal increase in operating expenditures due to increased caseload.

BILL DESCRIPTION

This bill establishes compassionate release for certain inmates and repeals the current medical parole law.

Under the bill, a court may release an inmate who qualifies for compassionate release at any time if the inmate is found to be suffering from: 1) a grave medical condition; 2) a terminal condition, disease or syndrome; or 3) a permanent physical incapacity.

The bill defines “grave medical condition” to mean a prognosis that an inmate has more than six months but not more than 12 months to live or has a medical condition that did not exist at the time of sentencing that for at least three months has required the inmate to receive 24 hour care. The bill defines “terminal condition, disease or syndrome” to mean a prognosis that the inmate has six months or less to live. Finally, the bill defines “permanent physical incapacity” to mean a prognosis that an inmate has a medical condition that did not exist at the time of sentencing and renders him or her permanently unable to perform activities of basic daily living, requiring 24-hour care.

The bill provides that the DOC is to establish a process for an inmate to obtain a diagnosis from two licensed physicians to determine whether he or she is eligible for compassionate release.

If the inmate is diagnosed with a grave medical condition, the inmate’s attorney or public defender may initiate the process of petitioning for compassionate release. If the inmate is diagnosed with a terminal condition, disease or syndrome, or permanent physical incapacity, the DOC is to provide the inmate and the inmate’s attorney or public defender with a certificate of eligibility for compassionate release. The inmate may petition the Superior Court for compassionate release based on the certificate of eligibility.

If an inmate is granted compassionate release under the bill, the court is required to ensure that the parole board has created a release plan that includes: 1) identification of a community sponsor; 2) verification of the availability of appropriate medical services sufficient to meet the inmate’s treatment needs; and 3) verification of appropriate housing.

Finally, this bill repeals the current medical parole law. Under current law, an inmate suffering from a terminal condition or permanent physical incapacity may be eligible for medical parole, with the exception of inmates serving a sentence for certain crimes. Under current law, a decision concerning the medical parole of an inmate is conducted by the parole board.

FISCAL ANALYSIS

EXECUTIVE BRANCH

The OLS has not received a formal fiscal note on this bill. However, upon request, the DOC has indicated to the OLS that the bill may not have a significant fiscal impact as “very few patients are ever released before their death from their disease process (i.e., terminal cancer, hepatic failure, end stage cardiac disease, end stage lung disease, AIDS, etc.)” Furthermore, the DOC points out that not all patients referred to medical parole are approved due to the requirement of terminal diagnosis of less than six months to live and a permanent physical disability demonstrated by total need for skilled nursing care. These conditions have to be met for the consideration of compassionate release as well. According to the DOC, on average there are 40 deaths per year in State prisons. However, the DOC is unable to determine whether the deaths are due to any terminal condition.

OFFICE OF LEGISLATIVE SERVICES

The OLS estimates that the enactment of this bill may result in cost savings to the DOC and the SPB, and an increase in costs incurred by the Judiciary and the Office of the Public Defender. The OLS cannot determine the net effect to the State.

For every inmate qualifying for compassionate release with a prognosis of six to twelve months to live or a permanent physical incapacity, the DOC would realize a modest reduction in expenditures. The DOC previously indicated to the OLS that the average annual cost to house an inmate in a State prison facility totaled \$50,590 in FY 2019. However, this amount would not accrue as State cost savings for each individual released unless the prison population declined by a number large enough for the DOC to lower bed space capacity, thereby reducing its fixed costs. The department informed the OLS that if a single inmate had been diverted from State prison in FY 2019 without decreasing the number of bed spaces, the department would not have incurred marginal costs for food, wages, and clothing of \$8.74 per day, or \$3,190 for the fiscal year. According to the DOC, on average there are 40 deaths per year in State facilities. However, the DOC is unable to determine whether the deaths were due to any terminal condition. The DOC notes that very few patients are ever released before their death from their disease process (i.e., terminal cancer, hepatic failure, end stage cardiac disease, end stage lung disease, AIDS, etc.).

This bill repeals the medical parole law, and therefore the SPB is likely to see a nominal reduction in expenditures due to a reduction in the number of inmates on parole. Under current law, a decision concerning the medical parole of an inmate is conducted by the parole board. Under the provisions of this bill, compassionate release will require the courts to decide on the release of qualified inmates.

The Office of Public Defender would have to represent additional low-income defendants for the purposes of filing a petition for compassionate release and hence likely to incur an increase in caseload and expenditures. The Judiciary may also incur an indeterminate nominal increase in operating expenditures due to increased caseload.

Section: *Judiciary*

Analyst: *Anuja Pande Joshi*
Assistant Research Analyst

Approved: *Frank W. Haines III*
Legislative Budget and Finance Officer

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

Governor Murphy Signs Sentencing Reform Legislation

10/19/2020

Governor Urges Passage of Remainder of Criminal Sentencing and Disposition Commission Bill Package

TRENTON – Governor Phil Murphy today signed three bills (A2370, A4371, and A4373) which together establish a compassionate release program for certain inmates, require a cost savings study of compassionate release programs and elimination of mandatory minimum terms, establish a "Corrections Rehabilitation and Crime Prevention Fund," and add a defendant's youth to the list of permissible mitigating factors a court may consider when sentencing a defendant.

"Our administration has been committed to criminal justice reform since day one, and we have taken many steps to address the wide disparities present in our justice system," **said Governor Murphy**. "I am proud to sign these three bills today, which will further our commitment to sentencing reform."

"However, it is imperative that we also enact existing legislation that implements the recommendations of the Criminal Sentencing and Disposition Commission to eliminate certain mandatory minimum terms of imprisonment for offenses specified by the Commission, allow the mandatory minimum reforms to apply retroactively, and allow for the resentencing of some inmates. We have made great progress on remaking our criminal justice system into one that reforms people instead of breaking them, but there is still much to be done. I look forward to working with advocates and our partners in the Legislature to see through the adoption of the rest of this critical bill package."

"Today the Governor has signed three important bills into law," **said former Chief Justice Deborah Poritz, Chair of the Criminal Sentencing and Disposition Commission**. "I urge the swift enactment of the Commission's other recommendations, including the elimination of mandatory minimums as specifically identified by the Commission in its initial report."

"The New Jersey Department of Corrections is proud to be part of the bi-partisan Criminal Sentencing Disposition Committee and seeing the committee's recommendations to right-size disparities in the judicial system come to fruition," **said New Jersey Department of Corrections Commissioner Marcus O. Hicks, Esq.** "Together with my committee members, we will continue to explore opportunities that support the well-being of all those in state custody while balancing public safety."

Primary sponsors for A2370 include Assemblymembers Gary S. Schaer and Verlina Reynolds-Jackson, and Senator Sandra B. Cunningham.

"Under our current medical parole system, very few of our gravely ill inmates meet the strict eligibility requirements. Our justice system is more than crime and punishment, it seeks to balance penalty with rehabilitation. By expanding upon what already exists we can show true compassion to those with profound medical needs and those suffering terminal illness," **said Assemblyman Gary Schaer and Assemblywoman Verlina Reynolds-Jackson in a joint statement**. "The financial realities of providing extensive medical care has burdened our already overcrowded prison system. Creating clear guidelines with this compassionate release program will allow us to reduce capacity, and alleviate financial strains while getting medically vulnerable residents the care they need outside of prison. Our treatment of those within our prisons is a reflection of our humanity. As we work to reduce the spread of COVID-19 we bear responsibility for protecting the vulnerable within our prison system. Ensuring the ongoing safety of our communities must include steps to preserve those who are incarcerated. Every life is valuable and is worth defending. "

A2370 implements Recommendation #7 from the Criminal Sentencing and Disposition Commission's November 2019 report. It would repeal New Jersey's existing medical parole statute and replace it with "compassionate release," under which an incarcerated person may be released from prison if the person is suffering from a terminal medical condition or permanent physical incapacity. Under current law, an inmate is eligible for medical parole if two physicians determine that he suffers from either (1) a terminal illness with six months or less to live, or (2) a permanent physical incapacity rendering him unable to perform activities of basic daily living and requiring 24-hour care.

This bill would keep the prognosis requirements for eligibility, but additionally require DOC to notify an inmate's attorney when an inmate is diagnosed with a "grave medical condition," defined as having twelve months or less to live or having been unable to perform activities of basic daily living for the prior three months. This change would allow the inmate's attorney to prepare a petition for the inmate's compassionate release before his or her condition deteriorates to the point of being unable to complete the process. If a released person is subsequently found to no longer be so debilitated or incapacitated as to be physically incapable of committing a crime or poses a threat to public safety, the individual may be returned to DOC custody after a hearing.

Primary sponsors for A4371 include Assemblymembers Annette Chaparro, Gordon M. Johnson, and Pedro Mejia, and Senator Sandra B. Cunningham.

"New Jersey's prison population increased by 278% between 1975 and 2015. Mass incarceration has shattered the lives of thousands of people across our state. Alarming racial disparities and mandatory minimums have exacerbated the problem. Between high rates of recidivism and mandatory minimum sentences keeping individuals incarcerated, the State has also shouldered a large economic burden. The cost to keep a person behind bars is estimated to be \$50,000 per year," **said Assemblywoman Chaparro, Assemblyman Johnson, and Assemblyman Pedro Mejia in a joint statement.** "Reform is long overdue. The fiscal study required under this law will give us a clear picture of the real cost savings of a compassionate release program and the elimination of certain mandatory minimums for parole, and guide us in focusing our efforts to help formerly incarcerated residents re-enter society and build their futures."

"No one should have to spend the final months of their life inside a prison cell. By implementing a compassionate release program we can allow more individual to live out their last days someplace that is comfortable to them, surrounded by friends and family," **said Senator Cunningham.** "Not only is this the right thing to do, but we expect it will also save the state significant amounts of money in medical costs."

A4371 implements Recommendation #8 from the Criminal Sentencing and Disposition Commission's November 2019 report. It would require DOC, in consultation with Treasury and the State Parole Board, to annually report to the Governor and Legislature the results of a study examining any cost savings that may be realized from compassionate release and mandatory minimum reforms. Since the proposed reforms are likely to result in shorter prison terms for certain low-risk offenders, the Commission believes the reduction may generate cost savings to the State over the long-term.

The bill would require any cost savings to be deposited into a newly created "Corrections Rehabilitation and Crime Prevention Fund," which would be used to support recidivism reduction programs (e.g., educational and vocational training) and for other services to facilitate inmates' successful reentry in society.

Primary sponsors for A4373 include Assemblymembers William W. Spearman, Angelica M. Jimenez, and Adam J. Taliaferro, and Senators Nellie Pou, and Shirley Turner.

"The social, emotional and mental maturity of a youthful defendant is complex and nuanced. That very fact makes it critical for the age of a defendant to be factored by the court in criminal culpability. Young people are impressionable and particularly susceptible to peer pressure. More broadly, when placed in the wrong correctional environments and without appropriate interventions, they are more likely to reoffend," **said Assemblyman William Spearman, Assemblywoman Angelica Jimenez, and Assemblywoman Adam Taliaferro in a joint statement.** "The goal, first and foremost, is to ensure our justice system always treats our young people with compassion. Allowing the courts to consider age as a mitigating factor would align juvenile sentencing with best practices that stem from neurological evidence and prevent disproportionately harsh sentencing. Ultimately, our young people must have the opportunity to grow and redefine themselves beyond their wrongdoing."

"As we continue to address historically biased criminal sentencing practices, we must also consider those now currently serving severe, decades-long sentences that were saddled on them as juveniles," **said Senator Pou.** "We cannot right every wrong, but when we build a better future and restructure policies for criminal sentencing moving forward, we cannot forget those still living with the sentencing missteps of the past. These sentencing reforms represent a small, though crucial piece of the greater effort to build a safer, fairer and more just New Jersey."

"All too often people make mistakes in their youth which follow them for the rest of their lives," **said Senator Turner.** "By allowing judges to consider the age of defendants, up to age 26, we can help to ensure the sentencing of children and young adults takes into account their level of maturity when they committed the crime, so can be given a second chance to turn their lives around."

A4373 implements Recommendation #5 from the Criminal Sentencing and Disposition Commission's November 2019 report. It would add a criminal defendant's youth to the list of permissible mitigating factors a court may consider when sentencing a defendant. Current law provides 13 mitigating factors that the court may consider when sentencing a defendant. The only mitigating factor related to the age of a youthful defendant permits the court to consider whether the defendant's conduct was substantially influenced by another, more mature person. Under this bill, the court would be permitted broadly to consider as a mitigating factor whether a defendant was under the age of 26 when an offense was committed.

Numerous advocacy organizations including NOBLE, the REFORM Alliance, the National Action Network, the Latino Action Network, and Communities in Cooperation played critical roles in this legislation at every step of the process.

"These important bills will benefit all New Jerseyans and their families, especially those in marginalized communities," said **Jiles H. Ship, President of the National Organization of Black Law Enforcement Executives, New Jersey Chapter**. "The commission's vision for a fairer criminal justice system garnered unanimous consensus from the various professionals who work daily in the criminal justice system. Together, these reforms can change people's lives and makes New Jersey safer for everyone, which ultimately saves taxpayer dollars."

"Overly harsh sentences waste lives and money, with no public safety benefit," said **Jessica Jackson, Chief Advocacy Officer, for the REFORM Alliance**. "These measures are rooted in the fact that people are more than their worst day and deserve a second chance. This legislation represents a giant step forward for justice in New Jersey."

"I am writing this letter for the strict purpose of showing my upmost support on behalf of the three laws being signed today," said **Reverend Steffie Bartley, Northeastern Regional Director for the National Action Network**. "Not only will many people benefit from this, but they will also be given a second chance at life. I am happy to not only be apart but to witness this change for the better with the reform of our Judicial system. Although, I am excited about this, I also want to encourage that the change does not stop here, there are still many laws in place that need to be dismantled. I encourage we continue to work on getting these bills passed and I look forward to seeing this reform happen."

"I have been a criminal justice reform advocate for over 20 years, statewide and I have seen New Jersey evolve," said **Cuqui Rivera, Criminal Justice Reform Chair at the Latino Action Network**. "New Jersey leads the way in criminal justice reforms above the country. It is impressive that we have been able to achieve so much. I am proud of New Jersey and this administration for getting to this place. This is hard stuff to work through and we applaud this administration for doing the right thing, not necessarily the popular thing. It is also important that we see the entire sentencing reform package through. The Senate must pass currently stalled legislation that adopts more of the Criminal Sentencing and Disposition Commission's recommendations, including those to eliminate certain mandatory minimums, allow the Department of Corrections to make more inmates eligible for parole, and to allow for resentencing of some inmates."

"Considering the enormity of the problems with the prison systems of America adversely impacting people of color, New Jersey is making progress in remedying some of the ineffectiveness practices of the prison system," said **Reverend Dr. Pamela Jones, Director of Communities in Cooperation**. "More so, the answer to prison reform is at both the state and the local government levels where fairness begins. Governor Murphy's positioning provides monumental progress for New Jersey as a major influencer of prison reforms nationally while the implementation of supportive release is a vital component of the restorative process."

This Week in New Jersey: October 23, 2020

10/23/2020



Governor Murphy Nominates Dr. Angelica Allen-McMillan as Commissioner of the New Jersey Department of Education

Governor Phil Murphy announced his nomination of Dr. Angelica Allen-McMillan, Ed.D., as the next Commissioner of the New Jersey Department of Education.

“From day one, I pledged to select a Commissioner of Education with experience in public education. We fulfilled that promise through the nomination of Dr. Repollet, and maintain that promise today,” said Governor Murphy. “A product of New Jersey’s public schools, Angelica has worked at all levels of education and knows exactly what our teachers and students need to succeed. She is an exemplary educator and I’m confident she is the leader we need to carry our school communities through the remainder of this pandemic and beyond.”

“I’d also like to thank outgoing Interim Commissioner Kevin Dehmer for his tireless service during an unprecedented time for the Department and our state,” continued Governor Murphy. “He’ll continue to serve the DOE as CFO and Assistant Commissioner and will work alongside Angelica to advance an agenda that puts our students’ health, achievement, and well-being first, and maintains our state’s reputation as home to the nation’s best public education system.”

“I am a proud product of New Jersey’s magnificent public education system and I have dedicated my career to ensuring

that the children of this state continue to get the type of education I received,” said incoming Acting DOE Commissioner Dr. Angelica Allen-McMillan. “I am extremely proud the Governor has put his faith in me to continue New Jersey’s tradition of educational excellence.”

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“Our administration has been committed to criminal justice reform since day one, and we have taken many steps to address the wide disparities present in our justice system,” said Governor Murphy. “I am proud to sign these three bills today, which will further our commitment to sentencing reform.”

“However, it is imperative that we also enact existing legislation that implements the recommendations of the Criminal Sentencing and Disposition Commission to eliminate certain mandatory minimum terms of imprisonment for offenses specified by the Commission, allow the mandatory minimum reforms to apply retroactively, and allow for the resentencing of some inmates. We have made great progress on remaking our criminal justice system into one that reforms people instead of breaking them, but there is still much to be done. I look forward to working with advocates and our partners in the Legislature to see through the adoption of the rest of this critical bill package.”

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“The New Jersey Department of Corrections is proud to be part of the bi-partisan Criminal Sentencing Disposition Committee and seeing the committee’s recommendations to right-size disparities in the judicial system come to

fruition,” said New Jersey Department of Corrections Commissioner Marcus O. Hicks, Esq. “Together with my committee members, we will continue to explore opportunities that support the well-being of all those in state custody while balancing public safety.”

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Governor Murphy Signs Legislation Requiring Public Health Emergency Credits To Be Awarded to Certain Inmates and Parolees During a Public Health Emergency

Governor Phil Murphy signed legislation (S2519) which requires public health emergency credits to be awarded to certain inmates and parolees during a public health emergency. The legislation includes certain exclusions and prohibits inmates or parolees to contact their victims upon their release.



“Since the beginning of the COVID-19 pandemic, our administration has worked tirelessly to save as many lives as possible and to stem the spread of COVID-19,” said Governor Murphy. “Since March, the population in State correctional facilities has decreased by nearly 3,000 people (16%), including more than 1,200 people who were released under Executive Order 124. This dramatic reduction has allowed for critical social distancing as part of the fight against COVID-19.

“Thanks to the efforts of our correctional leadership, the COVID-19 positivity rate among our incarcerated population is at an impressive low of 0.09%. But the threat of COVID-19 is still present,” continued Governor Murphy. “Reducing our prison population will undoubtedly further our mission to combat COVID-19. This law further reduces the prison population to allow for even more social distancing.”

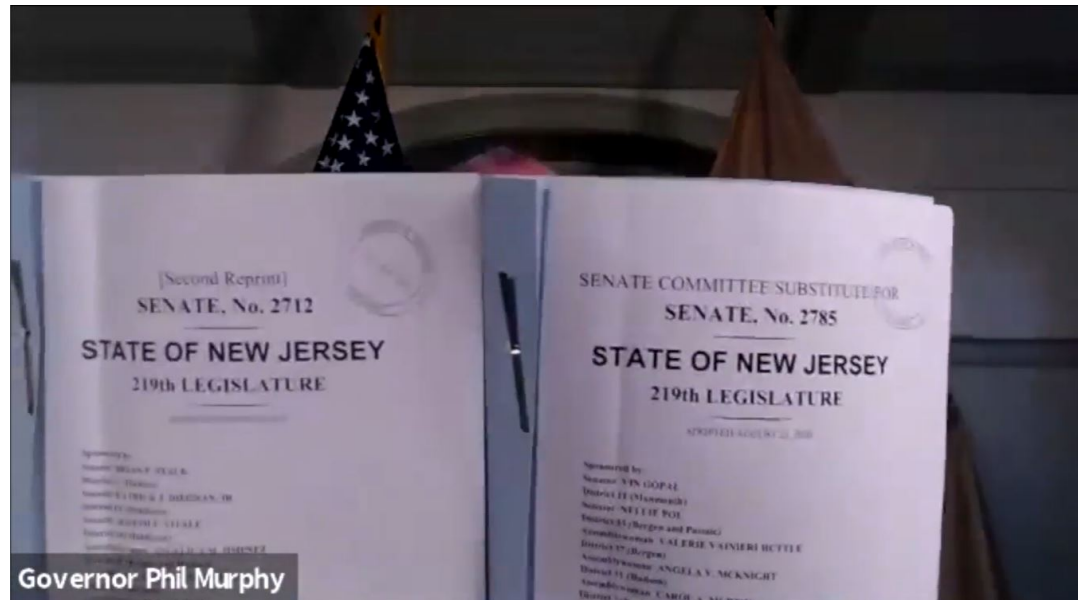
“The New Jersey Department of Corrections has taken numerous steps, grounded in public health guidance, to ensure staff safety and the safety of those in the state's custody during this unprecedented pandemic,” said New Jersey Department of Corrections Commissioner Marcus O. Hicks, Esq. “These measures, including E.O. 124 providing for the release of certain offenders, combined with paroles and individuals completing their sentences, has decreased our population by more than 2,800. The Department will continue to lend support and take action in furtherance of public health and public safety.”

“The State Parole Board recognizes Governor Murphy and the New Jersey State Legislature for their commitment in creating a safe, healthy, and sustainable parolee release program,” said New Jersey State Parole Board Chairman Samuel J. Plumeri, Jr. “This law takes into consideration those serving their sentences in our state prisons as well as those within the communities that they will return to.”

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Governor Murphy Signs Legislation Requiring Reforms to Long-Term Care Industry

Governor Phil Murphy signed two bills (S2712 and S2785) ordering reforms to the long-term care industry. The bills implement recommendations from the Manatt Health Report, released on June 3, 2020.



S2712 requires minimum direct care staff-to-resident ratios in New Jersey long-term care facilities. Additionally, the legislation will establish the Special Task Force on Direct Care Workforce Retention and Recruitment. S2785 requires long-term care facilities to institute policies that prevent social isolation of residents, addressing issues experienced by LTC residents and their families as a result of prohibitions and limitations on visitation during the COVID-19 pandemic.

"Sadly, too many nursing homes are run by companies more interested in making money than protecting patients," said Governor Murphy. "These long-sought reforms will help bring accountability to the industry and protect residents, staff, and family members with a loved one living in a long-term care facility. I am proud to have worked with our partners in organized labor, health care advocates, and legislative sponsors to finally implement safe staffing ratios in our nursing homes, as well as other long overdue reforms."

"Staff caring for our most vulnerable residents in long-term care settings are the backbone of these facilities," said Health Commissioner Judith Persichilli. "As a nurse, I know there is no more important role than as a caregiver and all of those working in these facilities are healthcare heroes. We have to support this workforce and give them an opportunity to grow and advance in their careers, so it is not only a more rewarding job, but also results in improved care."

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Governor Murphy, Congressman Norcross Announce New Workforce Development Programs from Coronavirus Relief Fund

Governor Phil Murphy and Congressman Donald Norcross announced \$14 million in additional Coronavirus Aid Relief and Economic Security (CARES) Act funding to develop workforce development programs. The programs are designed to help businesses impacted by COVID-19 replenish their workforce and help jobless residents learn new skills that lead to successful reemployment.



“As this pandemic continues to threaten our public health, we must work to ensure that a stronger, fairer, and more resilient New Jersey emerges on the other side of COVID-19,” said Governor Murphy. “With today’s announcement, we are investing in opportunities for job training in our workforce that will reignite and grow our economy.”

“The Coronavirus pandemic has upended our economy, but we will recover by working together,” said Congressman Norcross. “Using federal CARES Act funding, New Jersey is helping workers and businesses get back on their feet. These workforce programs will help employers provide skill-building opportunities and on the job training, connecting New Jerseyans with the services they need to get the job they deserve.”

“The need is everywhere,” said Labor Commissioner Robert Asaro-Angelo. “We all know of businesses that are struggling or have closed, and workers who have been laid off or have had their hours drastically reduced as a result of the pandemic. We are grateful for the opportunity to use these funds to turn lives around and help our state recover economically.”

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