

2A:158A-5.3
LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 2023 **CHAPTER:** 157

NJSA: 2A:158A-5.3 Directs Office of the Public Defender to provide representation at parole revocation proceedings.

BILL NO: S3772 (Substituted for A5671)

SPONSOR(S) Pou, Nellie and others

DATE INTRODUCED: 5/8/2023

COMMITTEE: **ASSEMBLY:** --

SENATE: Budget & Appropriations

AMENDED DURING PASSAGE: **No**

DATE OF PASSAGE: **ASSEMBLY:** 06/30/2023

SENATE: 06/30/2023

DATE OF APPROVAL: 9/12/2023

FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL (S3772 enacted) Yes

S3772

INTRODUCED BILL: (Includes sponsor(s) statement) Yes

COMMITTEE STATEMENT: **ASSEMBLY:** No

SENATE: Yes

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, *may possibly* be found at www.njleg.state.nj.us)

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: Yes

A5671

INTRODUCED BILL: (Includes sponsor(s) statement) Yes

COMMITTEE STATEMENT: **ASSEMBLY:** Yes

SENATE: No

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, *may possibly* be found at www.njleg.state.nj.us)

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: Yes

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: Yes

FOLLOWING WERE PRINTED:

To check for circulating copies, contact New Jersey State Government Publications at the State Library (609) 278-2640 ext.103 or <mailto:refdesk@njstatelib.org>

REPORTS: No

HEARINGS: No

NEWSPAPER ARTICLES: No

CL/JA

P.L. 2023, CHAPTER 157, *approved September 12, 2023*
Senate, No. 3772

1 AN ACT concerning representation by the Office of the Public
2 Defender at parole revocation proceedings and supplementing
3 chapter 158A of Title 2A of the New Jersey Statutes.
4

5 **BE IT ENACTED** *by the Senate and General Assembly of the State*
6 *of New Jersey:*
7

8 C.2A:158A-5.3 Office of the Public Defender, unit established,
9 representation, parole revocation, violation.

10 1. There is hereby established, within the Office of the Public
11 Defender, a unit which shall provide for the legal representation of
12 any person on parole from a correctional institution of this State or
13 otherwise under the parole supervision of this State who is charged
14 with violation of that parole or who is under consideration for
15 revocation of parole.
16

17 2. This act shall take effect immediately.
18
19

20 STATEMENT
21

22 This bill establishes a unit within the Office of the Public
23 Defender (the OPD) responsible to provide legal representation of
24 any person on parole from a correctional institution of this State or
25 otherwise under the parole supervision of this State who is charged
26 with violation of that parole or who is under consideration for
27 revocation of parole.

28 This legislation complies with Recommendation “E” from the
29 March 2023 Criminal Sentencing and Disposition Commission
30 report which proposed the end of reliance on court-appointed
31 attorneys for parole violation cases and the restoration of that
32 service through the OPD.
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37 Directs Office of the Public Defender to provide representation
38 at parole revocation proceedings.

SENATE, No. 3772

STATE OF NEW JERSEY
220th LEGISLATURE

INTRODUCED MAY 8, 2023

Sponsored by:

Senator NELLIE POU

District 35 (Bergen and Passaic)

Assemblyman REGINALD W. ATKINS

District 20 (Union)

Assemblyman RAJ MUKHERJI

District 33 (Hudson)

Assemblyman BENJIE E. WIMBERLY

District 35 (Bergen and Passaic)

SYNOPSIS

Directs Office of the Public Defender to provide representation at parole revocation proceedings.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/30/2023)

1 AN ACT concerning representation by the Office of the Public
2 Defender at parole revocation proceedings and supplementing
3 chapter 158A of Title 2A of the New Jersey Statutes.

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5 **BE IT ENACTED** *by the Senate and General Assembly of the State*
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8 1. There is hereby established, within the Office of the Public
9 Defender, a unit which shall provide for the legal representation of
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26 This legislation complies with Recommendation "E" from the
27 March 2023 Criminal Sentencing and Disposition Commission
28 report which proposed the end of reliance on court-appointed
29 attorneys for parole violation cases and the restoration of that
30 service through the OPD.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE, No. 3772

STATE OF NEW JERSEY

DATED: JUNE 27, 2023

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 3772.

This bill establishes a unit within the Office of the Public Defender (the OPD) responsible to provide legal representation of any person on parole from a correctional institution of this State or otherwise under the parole supervision of this State who is charged with violation of that parole or who is under consideration for revocation of parole.

This legislation complies with Recommendation “E” from the March 2023 Criminal Sentencing and Disposition Commission report, which proposed the end of reliance on court-appointed attorneys for parole violation cases and the restoration of that service through the OPD.

FISCAL IMPACT:

The Office of Legislative Services (OLS) concludes that requiring the Office of the Public Defender to provide representation at parole revocation proceedings would result in indeterminate annual cost increases to the State.

The OLS notes that in response to an FY 2024 OLS discussion point, the Office of the Public Defender indicated that the estimated annual cost of a fully reconstituted Parole Revocation Unit would be \$1.1 million.

FISCAL NOTE
SENATE, No. 3772
STATE OF NEW JERSEY
220th LEGISLATURE

DATED: JULY 3, 2023

SUMMARY

Synopsis: Directs Office of the Public Defender to provide representation at parole revocation proceedings.

Type of Impact: Annual State expenditure increase.

Agencies Affected: The Office of the Public Defender.

Executive Estimate

Fiscal Impact	<u>FY 2024</u>
Annual State Cost Increase	\$1,113,000

Office of Legislative Services Estimate

Fiscal Impact	<u>FY 2024</u>
Annual State Cost Increase	Indeterminate

- The Office of Legislative Services (OLS) concludes that requiring the Office of the Public Defender to provide representation at parole revocation proceedings would result in indeterminate annual cost increases to the State.
- In response to an FY 2024 OLS Discussion Point, the Office of the Public Defender indicated that the estimated annual cost of a fully reconstituted Parole Revocation Unit would be \$1.1 million. The OLS does not have sufficient information to confirm this cost estimate.

BILL DESCRIPTION

This bill establishes a unit within the Office of the Public Defender responsible for providing legal representation to any person on parole who is charged with violation of that parole or who is under consideration for revocation of parole.

FISCAL ANALYSIS

EXECUTIVE BRANCH

The OLS has not received a formal fiscal note on this bill. However, in response to an FY 2024 OLS Discussion Point, the Office of the Public Defender indicated that “[c]urrently the representation of parolees at revocation hearings is prohibited for the public defender and the burden falls to the New Jersey Bar Association currently performing pro bono work for indigents per the ‘Madden System.’ In order for the Office of the Public Defender to provide this representation to effect change and provide adequate representation, additional staff resources would be required. Based on reports from the Parole Board Annual Report cases are estimated at 2,000 per year. An appropriation of \$1.113 million is necessary. Given the current staffing shortages, reallocation of current staffing and resources to reconstitute the Parole Revocation Unit is not feasible.”

OFFICE OF LEGISLATIVE SERVICES

The OLS concludes that requiring the Office of the Public Defender to provide representation at parole revocation proceedings would result in indeterminate annual cost increases to the State. As noted above, in response to an FY 2024 OLS Discussion Point, the Office of the Public Defender indicated that the estimated annual cost of a fully reconstituted Parole Revocation Unit would be \$1.1 million. The OLS does not have sufficient information to confirm this cost estimate.

In the way of background, longstanding language in the annual appropriations acts prohibits the allocation of State funds for the representation of parolees in revocation proceedings. Representation of parolees is provided through the “Madden System,” which establishes that the New Jersey bar performs pro bono work for indigent persons in cases where there is no provision of a public defender. While the Office of the Public Defender has not had a direct role in representing clients before the State Parole Board since 1994, the office has still occasionally assisted clients in their parole proceedings.

Under current law, as it relates to violations of parole conditions, a parole officer, who has probable cause to believe that the parolee has violated a condition of parole, may require that the parolee appear before a designated representative of the board for a parole adjustment. If the evidence presented at the hearing supports a finding of probable cause that the parolee has violated a condition of parole, the hearing officer is required to determine whether the parolee should be released with further conditions or parole should be revoked. Under the bill, a representative from the Office of the Public Defender would appear at this hearing to represent the parolee, rather than current practice, which requires a court-appointed or “Madden” attorney to appear. Further, under current law, if the hearing officer makes a finding of probable cause that a condition was violated by the parolee, and finds that revocation of parole is desirable, or the parolee is convicted of a criminal offense while on parole, the board is required to conduct a revocation hearing. Again, per the provisions of this bill, rather than a court-appointed or “Madden” attorney, a representative from the office would appear at this hearing to represent the parolee.

Section: Judiciary

*Analyst: Michael Davila
 Associate Counsel*

*Approved: Thomas Koenig
 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.).

ASSEMBLY, No. 5671

STATE OF NEW JERSEY 220th LEGISLATURE

INTRODUCED JUNE 26, 2023

Sponsored by:

Assemblyman REGINALD W. ATKINS

District 20 (Union)

Assemblyman RAJ MUKHERJI

District 33 (Hudson)

Assemblyman BENJIE E. WIMBERLY

District 35 (Bergen and Passaic)

SYNOPSIS

Directs Office of the Public Defender to provide representation at parole revocation proceedings.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/30/2023)

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26 This legislation complies with Recommendation "E" from the
27 March 2023 Criminal Sentencing and Disposition Commission
28 report which proposed the end of reliance on court-appointed
29 attorneys for parole violation cases and the restoration of that
30 service through the OPD.

ASSEMBLY BUDGET COMMITTEE

STATEMENT TO

ASSEMBLY, No. 5671

STATE OF NEW JERSEY

DATED: JUNE 27, 2023

The Assembly Budget Committee reports favorably Assembly Bill No. 5671.

This bill establishes a unit within the Office of the Public Defender (the OPD) responsible to provide legal representation of any person on parole from a correctional institution of this State or otherwise under the parole supervision of this State who is charged with violation of that parole or who is under consideration for revocation of parole.

This legislation complies with Recommendation “E” from the March 2023 Criminal Sentencing and Disposition Commission report which proposed the end of reliance on court-appointed attorneys for parole violation cases and the restoration of that service through the OPD.

FISCAL IMPACT:

The OLS concludes that requiring the Office of the Public Defender to provide representation at parole revocation proceedings would result in indeterminate annual cost increases to the State.

The OLS notes that in response to an FY 2024 OLS discussion point, the Office of the Public Defender indicated that the estimated annual cost of a fully reconstituted Parole Revocation Unit would be \$1.1 million.

FISCAL NOTE
ASSEMBLY, No. 5671
STATE OF NEW JERSEY
220th LEGISLATURE

DATED: JULY 5, 2023

SUMMARY

Synopsis: Directs Office of the Public Defender to provide representation at parole revocation proceedings.

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Agencies Affected: The Office of the Public Defender.

Executive Estimate

Fiscal Impact	<u>FY 2024</u>
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Section: Judiciary

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Legislative Budget and Finance Officer*

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

Acting Governor Way Takes Action on Legislation

09/12/2023

TRENTON – Today, Acting Governor Way signed the following bills into law:

S-3092/A-4793 (Smith, Codey/Benson, Daniels) - Authorizes installation and operation of meter collar adapters on residential electric meters, under certain conditions

S-3772/A-5671 (Pou/Atkins, Mukherji, Wimberly) - Directs Office of the Public Defender to provide representation at parole revocation proceedings

A-4089/S-2732 (DeAngelo, Benson, Karabinchak/Scutari, Smith) - Extends deadlines, under certain circumstances, for completion and commercial operation of certain solar electric power generation facilities

A-4090/S-1884 (Freiman, Pintor Marin, Karabinchak/Sarlo, Oroho) - Requires State Auditor to annually publish user-friendly report summarizing and analyzing contents of State's Annual Financial Report

A-4797/S-3255 (Karabinchak, Benson, Verrelli/Diegnan, Oroho) - Concerns percentage of reclaimed asphalt pavement and recycled materials that can be used for certain road projects