

30:4-82.2

LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 2015 **CHAPTER:** 11

NJSA: 30:4-82.2 (Requires DHS and DOC to formulate joint arrangement and plan to ensure provision of mental health and substance use disorder services to inmates)

BILL NO: S2380 (Substituted for A3722)

SPONSOR(S) Vitale and others

DATE INTRODUCED: September 22, 2014

COMMITTEE: **ASSEMBLY:** ---

SENATE: Health, Human Services and Senior Citizens

AMENDED DURING PASSAGE: No

DATE OF PASSAGE: **ASSEMBLY:** December 18, 2014

SENATE: December 18, 2014

DATE OF APPROVAL: February 5, 2015

FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL (Senate Committee Substitute enacted)

S2380

SPONSOR'S STATEMENT: (Begins on page 5 of introduced bill) 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: No

A3722

SPONSOR'S STATEMENT: (Begins on page 5 of introduced bill) Yes

COMMITTEE STATEMENT: **ASSEMBLY:** Yes

SENATE: No

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: No

(continued)

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: Yes

FOLLOWING WERE PRINTED:

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REPORTS: No

HEARINGS: No

NEWSPAPER ARTICLES: Yes

"Christie signs bill to address growing heroin, prescription drug epidemic," northjersey.com, 2-5-15

"Christie signs measures aimed at battling heroin epidemic," The Record, 2-6-15

"Law shields responders administering Narcan," The Times, 2-6-15

"Police department adding Narcan to anti-drug arsenal," Suburban Trends, 2-8-15

"DA: Dozens saved by cops with Narcan," Burlington County Times, 2-8-15

LAW/RWH

P.L.2015, CHAPTER 11, *approved February 5, 2015*
Senate Committee Substitute for
Senate, No. 2380

1 AN ACT concerning prison-based mental health and substance use
2 disorder treatment programs, and amending P.L.1986, c.71.

3

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

6

7 1. Section 2 of P.L.1986, c.71 (C.30:4-82.2) is amended to read
8 as follows:

9 2. a. The Commissioner of **the Department of** Human
10 Services and the Commissioner of Corrections shall formulate a
11 plan to provide adequate and appropriate mental health and
12 substance use disorder services to inmates in all State-owned **or** ,
13 operated , or contracted correctional facilities.

14 The plan shall include, but need not be limited to, the following:

15 **a.** (1) Procedures for identifying a person in need of mental
16 health and substance use disorder services when the person is
17 initially admitted to a State-owned **or** , operated , or contracted
18 correctional facility , and while the person is confined therein;

19 **b.** (2) Procedures for providing a mental health and
20 substance use disorder evaluation to a person identified under
21 subsection a. of this section to determine whether the person is in
22 need of mental health or substance use disorder services;

23 **c.** (3) Procedures for providing adequate and appropriate
24 mental health or substance use disorder treatment to a person
25 **evaluated** determined to be in need under **subsection b.**
26 paragraph (2) of this **section**, adequate and appropriate mental
27 health treatment **subsection**;

28 **d.** (4) Enumeration of the types of mental health and
29 substance use disorder treatment that may be provided to a person
30 **evaluated** determined to be in need under **subsection b.**
31 paragraph (2) of this **section** subsection, which types of treatment
32 shall include, but need not be limited to, individual or group
33 counseling, treatment with prescription drugs, and increased
34 monitoring as needed to prevent harm to self or others, which may
35 include confinement in a secure hospital setting;

36 **e.** (5) Procedures for the provision of medication-assisted
37 treatment in substance use disorder treatment programs, as
38 appropriate and available;

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.

1 (6) Procedures for terminating the treatment provided under
2 **【subsection c.】** paragraph (3) of this 【section】 subsection when it is
3 no longer needed by the person receiving it;

4 **【f.】** (7) Identifying community mental health and substance use
5 disorder treatment providers and services to assist in a person’s
6 community reintegration upon the person’s discharge from a State-
7 owned, operated, or contracted correctional facility;

8 (8) Procedures for **【insuring】** ensuring cooperation between the
9 Department of Corrections and the Department of Human Services
10 at all personnel levels and at every stage of identification,
11 evaluation, treatment , and termination of treatment so that adequate
12 and appropriate mental health and substance use disorder services
13 are provided;

14 **【g.】** (9) Procedures for maintaining the confidentiality of mental
15 health and substance use disorder treatment records; and

16 (10) Procedures for biennial review and revision of the plan
17 developed under this section.

18 b. Mental health and substance use disorder treatment services
19 in State-owned, operated, or contracted facilities, as appropriate,
20 shall be delivered by licensed provider organizations.

21 c. The Department of Human Services shall adopt rules and
22 regulations, pursuant to the “Administrative Procedure Act,”
23 P.L.1968, c.410 (C.52:14B-1 et seq.), to establish standards and
24 requirements for the licensure of substance use disorder treatment
25 programs operating within State-owned, operated, or contracted
26 correctional facilities, as appropriate. In developing regulations, the
27 department shall take into consideration the unique characteristics
28 of treatment programs operating within a correctional environment.

29 d. The Department of Human Services is authorized to develop
30 a plan to provide mental health and substance use disorder services
31 to inmates in county-operated correctional facilities, in consultation
32 with the county-designated individual or entity charged with the
33 planning of treatment services for county inmates.

34 (cf: P.L.1986, c.71, s.2)

35
36 2. This act shall take effect on the first day of the fourth month
37 next following the date of enactment, except that the Commissioner
38 of Human Services and the Commissioner of Corrections may take
39 any anticipatory administrative action in advance thereof as may be
40 necessary for the implementation of this act.

41
42 _____
43
44 Requires DHS and DOC to formulate joint arrangement and plan
45 to ensure provision of mental health and substance use disorder
46 services to inmates.

SENATE, No. 2380

STATE OF NEW JERSEY 216th LEGISLATURE

INTRODUCED SEPTEMBER 22, 2014

Sponsored by:

Senator JOSEPH F. VITALE

District 19 (Middlesex)

Senator RAYMOND J. LESNIAK

District 20 (Union)

SYNOPSIS

Requires DHS and DOC to share regulatory authority in regard to prison-based mental health and substance abuse treatment programs.

CURRENT VERSION OF TEXT

As introduced.



S2380 VITALE, LESNIAK

2

1 AN ACT concerning prison-based mental health and substance abuse
2 treatment programs, supplementing Title 30 of the Revised
3 Statutes, and amending P.L.1999, c.16 and P.L.1986, c.71.

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

7
8 1. Section 2 of P.L.1999, c.16 (C.30:1B-10.1) is amended to
9 read as follows:

10 2. **[The]** Consistent with the provisions of section 2 of P.L. ,
11 c. (C.) (pending before the Legislature as this bill), the
12 Commissioner of Corrections shall [provide or arrange for] ensure
13 the provision of: (1) appropriate mental health services to [State-
14 sentenced incarcerated persons] inmates who suffer from mental
15 illness, as defined in section 2 of P.L.1987, c.116 (C.30:4-27.2), but
16 who are not in need of inpatient treatment at a State psychiatric
17 facility [. The commissioner may, in accordance with the
18 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
19 seq.), promulgate rules and regulations governing the provision of
20 mental health services to inmates.] ; and (2) appropriate substance
21 abuse treatment services to inmates who are addicted to, or who are
22 otherwise suffering physically or mentally from the use or abuse of,
23 narcotic drugs, as defined by section 2 of P.L.1970,
24 c.334 (C.26:2G-22), or alcohol.

25 As used in this section, "inmate" means a person who has been
26 convicted of, and sentenced to a period of incarceration for, a
27 violation of any of the laws of this State or nation, and who is
28 incarcerated in a correctional institution operated under the
29 authority of the Department of Corrections.

30 (cf: P.L.1999, c.16, s.2)

31

32 2. (New section) a. As provided in this subsection, the
33 Department of Corrections and the Department of Human Services
34 shall share regulatory authority over the therapeutic prison-based
35 treatment of inmates who have a mental illness, as defined by
36 section 2 of P.L.1987, c.410 (C.52:14B-1 et seq.), and inmates who
37 are addicted to, or who are otherwise suffering physically or
38 mentally from the use or abuse of, narcotic drugs, as defined by
39 section 2 of P.L.1970, c.334 (C.26:2G-22), or alcohol.

40 (1) The Department of Corrections shall be responsible for the
41 day-to-day operation and management of any prison-based
42 therapeutic treatment center in this State, as well as for the custodial
43 care of inmates who are engaged in therapeutic prison-based
44 treatment. Each inmate engaged in therapeutic prison-based
45 treatment shall remain subject to the supervisory and disciplinary
46 authority of custodial personnel at the correctional institution, as

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.

1 exercised in accordance with rules and regulations adopted pursuant
2 to this section.

3 (2) The Division of Mental Health and Addiction Services in the
4 Department of Human Services shall be responsible for providing
5 or arranging for the treatment, by licensed or certified treatment
6 providers, of inmates who are assigned to prison-based therapeutic
7 treatment centers operated by the Department of Corrections
8 pursuant to paragraph (1) of this subsection. Such treatment shall
9 be tailored to address the specific needs of inmates with mental
10 illness or substance abuse problems, as appropriate.

11 b. Appropriate representatives of the Department of
12 Corrections and the Department of Human Services shall establish,
13 and participate in, an interagency oversight board to facilitate the
14 development, coordination, and review of policies and procedures
15 used in therapeutic prison-based treatment.

16 c. (1) Notwithstanding any other law, rule, or regulation to the
17 contrary, the rights, rules of conduct, and treatment protocols
18 applicable to an inmate who is engaged in therapeutic prison-based
19 treatment shall be established by rule or regulation adopted jointly
20 by the Commissioner of Human Services and the Commissioner of
21 Corrections, pursuant to the "Administrative Procedure Act,"
22 P.L.1968, c.410 (C.52:14B-1 et seq.). These rules and regulations
23 shall reflect and adequately account for the division of authority,
24 and the respective roles of the Department of Corrections and the
25 Department of Human Services in relation to the day-to-day
26 operation and management of prison-based therapeutic treatment
27 centers and the provision of therapeutic prison-based treatment
28 therein, as provided in subsection a. of this section. If deemed
29 appropriate, the rules and regulations may authorize the Department
30 of Corrections to enter into service contracts with licensed or
31 certified treatment providers.

32 (2) In developing rules and regulations pursuant to this
33 subsection, the commissioners shall take into consideration: (a) the
34 rights of mental health services patients as set forth in section 10 of
35 P.L.1965, c.59 (C.30:4-24.2); (b) the rights of substance abuse
36 patients as set forth in regulation adopted pursuant to P.L.1970,
37 c.334 (C.26:2G-21 et seq.) and P.L.1974, c.304 (C.26:2B-7 et seq.);
38 (c) the differing needs and specific characteristics of, and types of
39 treatment that are appropriate for, inmates; and (d) the security
40 concerns associated with correctional institutions, and the necessity
41 to ensure the safety of prisoners, treatment staff, custodial
42 personnel, and others in and about the therapeutic prison-based
43 treatment center.

44 (3) Rules and regulations adopted pursuant to this subsection
45 may incorporate by reference, or otherwise cite or adopt, the
46 provisions of the mental health services plan developed in
47 accordance with P.L.1986, c.71 (C.30:4-82.1 et seq.), or the
48 provisions of any rules or regulations adopted pursuant that act,

1 provided that the plan provisions, rules, or regulations adequately
2 reflect, and account for, the division of authority required by
3 subsection a. of this section. To the extent that any plan provisions
4 or associated rules or regulations do not account for the division of
5 authority required by subsection a. of this section, those plan
6 provisions, rules, or regulations shall be jointly revised in
7 accordance with the provisions of subsection b. of P.L.1986,
8 c.71 (C.30:4-82.3). Any plan provisions or associated rules or
9 regulations which are not incorporated or otherwise adopted
10 pursuant to this paragraph shall be nullified or repealed, as
11 appropriate.

12 d. As used in this section:

13 “Correctional institution” means a prison, jail, or other place of
14 institutional confinement that is used to house inmates, and which is
15 regulated by the Department of Corrections.

16 “Inmate” means a person who has been convicted of, and
17 sentenced to a period of incarceration for, a violation of any of the
18 laws of this State or nation, and who is incarcerated in a
19 correctional institution operated under the authority of the
20 Department of Corrections.

21 “Licensed or certified treatment provider” means a person or
22 entity that is authorized to provide mental health treatment services
23 or substance abuse treatment services in the State, pursuant to a
24 valid license or certification issued by the Division of Mental
25 Health and Addiction Services in the Department of Human
26 Services.

27 “Prison-based therapeutic treatment center” means an area,
28 facility, or sub-facility within a correctional institution, which has
29 been designated or otherwise set aside for the therapeutic prison-
30 based treatment of inmates who are being housed at the correctional
31 institution.

32 “Therapeutic prison-based treatment” means therapeutic or
33 rehabilitative treatment, which is provided within the walls of a
34 correctional institution to inmates housed therein who have a mental
35 illness, as defined by section 2 of P.L.1987, c.116 (C.30:4-27.2), or
36 who are addicted to, or otherwise suffering physically or mentally
37 from the use or abuse of, narcotic drugs, as defined by section 2 of
38 P.L.1970, c.334 (C.26:2G-22), or alcohol.

39

40 3. Section 3 of P.L.1986, c.71 (C.30:4-82.3) is amended to read
41 as follows:

42 3. a. The plan required under section 2 of **【this act】** P.L.1986,
43 c.71 (C.30:4-82.2) shall be formulated no later than the 181st day
44 after the effective date of **【this act】** P.L.1986, c.71 (C.30:4-82.1 et
45 seq.). Pursuant to the "Administrative Procedure Act," P.L.1968,
46 c.410 (C. 52:14B-1 et seq.), the Commissioner of **【the Department**
47 **of】** Human Services and the Commissioner of Corrections **【jointly】**
48 shall jointly adopt regulations establishing the procedures

1 formulated under the plan required by section 2 of **[this act]**
2 P.L.1986, c.71 (C.30:4-82.2).

3 b. Immediately following the enactment of P.L. _____,
4 c. (C. _____) (pending before the Legislature as this bill), the
5 commissioners shall take joint action, as necessary, to revise and
6 update both the mental health services plan developed pursuant to
7 section 2 of P.L.1986, c.71 (C.30:4-82.2), and the associated rules
8 and regulations adopted pursuant to this section, in order to ensure
9 that the plan provisions and the rules and regulations appropriately
10 reflect, and account for, the division of authority required by
11 subsection a. of section 2 of P.L. _____, c. (C. _____) (pending before
12 the Legislature as this bill). If a plan provision, rule, or regulation
13 does not reflect the division of authority required by subsection a.
14 of section 2 of P.L. _____, c. (C. _____) (pending before the
15 Legislature as this bill), and is not revised to do so, in accordance
16 with the provisions of this subsection, the provision, rule, or
17 regulation shall be nullified or repealed, as appropriate.

18 (cf: P.L.1986, c.71, s.3)

19
20 4. This act shall take effect on the first day of the fourth month
21 following the date of enactment, except that the Commissioner of
22 Human Services and the Commissioner of Corrections may take
23 administrative action in advance thereof, as shall be necessary for
24 the implementation of this act.

25 26 27 STATEMENT

28
29 This bill would establish an interagency system of regulation
30 applicable to therapeutic prison-based treatment centers. As
31 defined by the bill, a therapeutic prison-based treatment center
32 would include any area, facility, or sub-facility within the walls of a
33 correctional institution, which is designated or set aside as a center
34 for the provision of mental health or substance abuse treatment
35 services to persons incarcerated in that institution (inmates).

36 The bill would split regulatory authority over these treatment
37 centers between the Department of Corrections (DOC) and the
38 Division of Mental Health and Addiction Services (DMHAS) in the
39 Department of Human Services (DHS). In particular, the bill would
40 specify that the DOC will be responsible for the day-to-day
41 operation and management of therapeutic prison-based treatment
42 centers, as well as for the custodial care and supervision of inmates
43 being treated therein, while the DMHAS will be responsible for
44 providing or arranging for the provision of treatment services to
45 such inmates by DMHAS-licensed treatment providers.

46 The bill would require appropriate representatives of the DOC
47 and DMHAS to establish, and participate in, an interagency
48 oversight board to facilitate the coordination of policies and

1 procedures used in therapeutic prison-based treatment centers. In
2 addition, the DOC and DMHAS would be required to jointly adopt
3 rules and regulations applicable to these treatment centers. Any
4 such rules and regulations must reflect, and be consistent with, the
5 division of authority specified by the bill, and the respective roles
6 of the DOC and DMHAS. In developing these rules or regulations,
7 the commissioners would be required to take into consideration:

- 8 • the rights of mental health services patients and substance
9 abuse patients as set forth in law and regulation;
- 10 • the differing needs and specific characteristics of, and types
11 of treatment that are appropriate for, State-sentenced
12 incarcerated persons; and
- 13 • the security concerns associated with correctional
14 institutions, and the necessity to ensure the safety of
15 prisoners, treatment staff, custodial personnel, and others in
16 and about the therapeutic prison-based treatment center.

17 The bill would specify that the new jointly-adopted rules and
18 regulations may also incorporate the provisions of a mental health
19 services plan that was previously adopted by the DOC and DHS
20 pursuant to the provisions of P.L.1986, c.71, or the provisions of
21 joint rules and regulations associated therewith, but only if the
22 provisions to be incorporated already account for the division of
23 departmental authority required by the bill or are jointly revised by
24 the DOC and DHS to do so. Any previously adopted plan
25 provisions or rules and regulations which do not account for the
26 requisite division of authority, and which are not revised in
27 accordance with the bill's provisions, must be repealed.

28 This bill is designed to address concerns that have been raised
29 regarding the adequacy of therapeutic prison-based treatment
30 programs. In particular, it has been alleged that these programs are
31 inferior to treatment programs that are provided to non-incarcerated
32 individuals, since prison-based programs are regulated by the DOC,
33 pursuant to the agency's overarching authority over prisoners and
34 correctional institutions, and are consequently not regulated or
35 licensed by the DMHAS, which is the agency that is generally
36 responsible for the regulation of mental health and substance abuse
37 treatment programs in the State. Accordingly, in order to avoid
38 disparate treatment of persons undergoing mental health and
39 substance abuse treatment in the State, and in order to ensure that
40 treatment standards and protocols used by prison-based and non-
41 prison-based facilities are consistent, this bill would provide the
42 DMHAS with the authority to regulate the mental health and
43 substance abuse treatment that is provided in correctional
44 institutions, and additionally require the DMHAS to ensure that
45 such treatment is provided by DMHAS-licensed individuals or
46 entities. However, the bill would preserve the DOC's primary
47 jurisdiction over the day-to-day operation and management of

S2380 VITALE, LESNIAK

7

- 1 therapeutic prison-based treatment programs and the inmates
- 2 engaged therein.

SENATE HEALTH, HUMAN SERVICES AND SENIOR
CITIZENS COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 2380

STATE OF NEW JERSEY

DATED: OCTOBER 27, 2014

The Senate Health, Human Services and Senior Citizens Committee reports favorably a Senate Committee Substitute for Senate Bill No. 2380.

This substitute would require the Commissioners of Human Services and Corrections to formulate a joint arrangement and plan to ensure the provision of mental health and substance use disorder services, by licensed service provider organizations, to inmates housed in State-owned, operated, or contracted correctional facilities, including prisons and halfway houses.

The joint plan would be required to include: (1) procedures for identifying inmates in need of mental health and substance use disorder treatment; (2) procedures for evaluating the mental health and substance use disorder service needs of inmates; (3) procedures for providing mental health and substance use disorder treatment to inmates who are determined to be in need of such services; (4) an enumeration of the types of mental health and substance use disorder treatment that may be provided to an inmate in need; (5) procedures for the provision of medication-assisted treatment, as appropriate and available; (6) procedures for terminating treatment when no longer needed; (7) the identification of community mental health and substance use disorder treatment providers and services to be used in the community reintegration process, upon an inmate's discharge from a correctional facility; (8) procedures for ensuring inter-agency cooperation at all personnel levels and every stage of inmate identification, evaluation, treatment, and termination of treatment; (9) procedures for maintaining the confidentiality of treatment records; and (10) procedures for biennial review and plan revision.

The Department of Human Services would be required to adopt rules and regulations to establish standards and requirements for the licensure of substance use disorder treatment programs operating within these facilities.

The substitute would also authorize the Department of Human Services to develop a separate plan to address the provision of mental health and substance use disorder services to inmates in county-

operated correctional facilities, in consultation with the county-designated individual or entity having responsibility for the planning of treatment services for county inmates.

ASSEMBLY, No. 3722

STATE OF NEW JERSEY 216th LEGISLATURE

INTRODUCED SEPTEMBER 22, 2014

Sponsored by:

Assemblywoman VALERIE VAINIERI HUTTLE

District 37 (Bergen)

Assemblywoman SHAVONDA E. SUMTER

District 35 (Bergen and Passaic)

Assemblyman RAJ MUKHERJI

District 33 (Hudson)

Assemblywoman MARY PAT ANGELINI

District 11 (Monmouth)

Assemblywoman GABRIELA M. MOSQUERA

District 4 (Camden and Gloucester)

Assemblyman REED GUSCIORA

District 15 (Hunterdon and Mercer)

Co-Sponsored by:

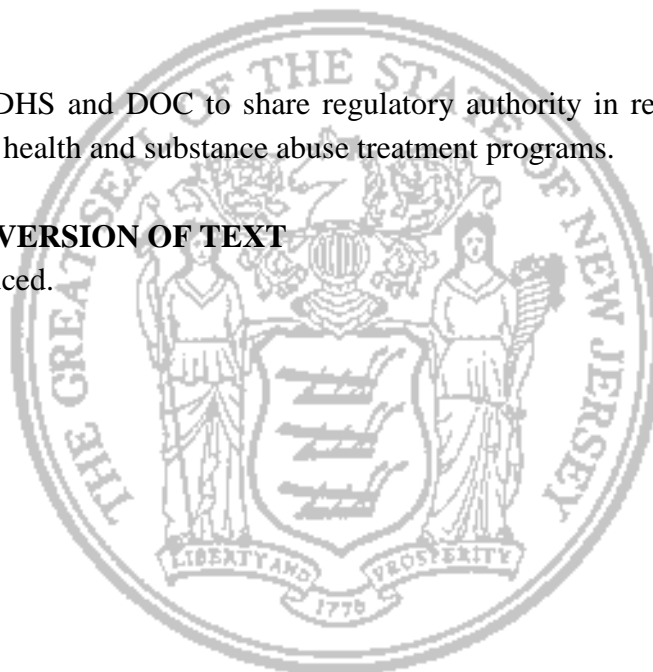
Assemblymen Rible, Wimberly, Fiocchi and Assemblywoman Schepisi

SYNOPSIS

Requires DHS and DOC to share regulatory authority in regard to prison-based mental health and substance abuse treatment programs.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 11/14/2014)

1 AN ACT concerning prison-based mental health and substance abuse
2 treatment programs, supplementing Title 30 of the Revised
3 Statutes, and amending P.L.1999, c.16 and P.L.1986, c.71.

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

7
8 1. Section 2 of P.L.1999, c.16 (C.30:1B-10.1) is amended to
9 read as follows:

10 2. **[The]** Consistent with the provisions of section 2 of P.L. ,
11 c. (C.) (pending before the Legislature as this bill), the
12 Commissioner of Corrections shall [provide or arrange for] ensure
13 the provision of: (1) appropriate mental health services to [State-
14 sentenced incarcerated persons] inmates who suffer from mental
15 illness, as defined in section 2 of P.L.1987, c.116 (C.30:4-27.2), but
16 who are not in need of inpatient treatment at a State psychiatric
17 facility [. The commissioner may, in accordance with the
18 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
19 seq.), promulgate rules and regulations governing the provision of
20 mental health services to inmates.] ; and (2) appropriate substance
21 abuse treatment services to inmates who are addicted to, or who are
22 otherwise suffering physically or mentally from the use or abuse of,
23 narcotic drugs, as defined by section 2 of P.L.1970, c.334
24 (C.26:2G-22), or alcohol.

25 As used in this section, "inmate" means a person who has been
26 convicted of, and sentenced to a period of incarceration for, a
27 violation of any of the laws of this State or nation, and who is
28 incarcerated in a correctional institution operated under the
29 authority of the Department of Corrections.

30 (cf: P.L.1999, c.16, s.2)

31

32 2. (New section) a. As provided in this subsection, the
33 Department of Corrections and the Department of Human Services
34 shall share regulatory authority over the therapeutic prison-based
35 treatment of inmates who have a mental illness, as defined by
36 section 2 of P.L.1987, c.410 (C.52:14B-1 et seq.), and inmates who
37 are addicted to, or who are otherwise suffering physically or
38 mentally from the use or abuse of, narcotic drugs, as defined by
39 section 2 of P.L.1970, c.334 (C.26:2G-22), or alcohol.

40 (1) The Department of Corrections shall be responsible for the
41 day-to-day operation and management of any prison-based
42 therapeutic treatment center in this State, as well as for the custodial
43 care of inmates who are engaged in therapeutic prison-based
44 treatment. Each inmate engaged in therapeutic prison-based

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.

1 treatment shall remain subject to the supervisory and disciplinary
2 authority of custodial personnel at the correctional institution, as
3 exercised in accordance with rules and regulations adopted pursuant
4 to this section.

5 (2) The Division of Mental Health and Addiction Services in the
6 Department of Human Services shall be responsible for providing
7 or arranging for the treatment, by licensed or certified treatment
8 providers, of inmates who are assigned to prison-based therapeutic
9 treatment centers operated by the Department of Corrections
10 pursuant to paragraph (1) of this subsection. Such treatment shall
11 be tailored to address the specific needs of inmates with mental
12 illness or substance abuse problems, as appropriate.

13 b. Appropriate representatives of the Department of
14 Corrections and the Department of Human Services shall establish,
15 and participate in, an interagency oversight board to facilitate the
16 development, coordination, and review of policies and procedures
17 used in therapeutic prison-based treatment.

18 c. (1) Notwithstanding any other law, rule, or regulation to the
19 contrary, the rights, rules of conduct, and treatment protocols
20 applicable to an inmate who is engaged in therapeutic prison-based
21 treatment shall be established by rule or regulation adopted jointly
22 by the Commissioner of Human Services and the Commissioner of
23 Corrections, pursuant to the "Administrative Procedure Act,"
24 P.L.1968, c.410 (C.52:14B-1 et seq.). These rules and regulations
25 shall reflect and adequately account for the division of authority,
26 and the respective roles of the Department of Corrections and the
27 Department of Human Services in relation to the day-to-day
28 operation and management of prison-based therapeutic treatment
29 centers and the provision of therapeutic prison-based treatment
30 therein, as provided in subsection a. of this section. If deemed
31 appropriate, the rules and regulations may authorize the Department
32 of Corrections to enter into service contracts with licensed or
33 certified treatment providers.

34 (2) In developing rules and regulations pursuant to this
35 subsection, the commissioners shall take into consideration: (a) the
36 rights of mental health services patients as set forth in section 10 of
37 P.L.1965, c.59 (C.30:4-24.2); (b) the rights of substance abuse
38 patients as set forth in regulation adopted pursuant to P.L.1970,
39 c.334 (C.26:2G-21 et seq.) and P.L.1974, c.304 (C.26:2B-7 et seq.);
40 (c) the differing needs and specific characteristics of, and types of
41 treatment that are appropriate for, inmates; and (d) the security
42 concerns associated with correctional institutions, and the necessity
43 to ensure the safety of prisoners, treatment staff, custodial
44 personnel, and others in and about the therapeutic prison-based
45 treatment center.

46 (3) Rules and regulations adopted pursuant to this subsection
47 may incorporate by reference, or otherwise cite or adopt, the
48 provisions of the mental health services plan developed in

1 accordance with P.L.1986, c.71 (C.30:4-82.1 et seq.), or the
2 provisions of any rules or regulations adopted pursuant that act,
3 provided that the plan provisions, rules, or regulations adequately
4 reflect, and account for, the division of authority required by
5 subsection a. of this section. To the extent that any plan provisions
6 or associated rules or regulations do not account for the division of
7 authority required by subsection a. of this section, those plan
8 provisions, rules, or regulations shall be jointly revised in
9 accordance with the provisions of subsection b. of P.L.1986, c.71
10 (C.30:4-82.3). Any plan provisions or associated rules or
11 regulations which are not incorporated or otherwise adopted
12 pursuant to this paragraph shall be nullified or repealed, as
13 appropriate.

14 d. As used in this section:

15 “Correctional institution” means a prison, jail, or other place of
16 institutional confinement that is used to house inmates, and which is
17 regulated by the Department of Corrections.

18 “Inmate” means a person who has been convicted of, and
19 sentenced to a period of incarceration for, a violation of any of the
20 laws of this State or nation, and who is incarcerated in a
21 correctional institution operated under the authority of the
22 Department of Corrections.

23 “Licensed or certified treatment provider” means a person or
24 entity that is authorized to provide mental health treatment services
25 or substance abuse treatment services in the State, pursuant to a
26 valid license or certification issued by the Division of Mental
27 Health and Addiction Services in the Department of Human
28 Services.

29 “Prison-based therapeutic treatment center” means an area,
30 facility, or sub-facility within a correctional institution, which has
31 been designated or otherwise set aside for the therapeutic prison-
32 based treatment of inmates who are being housed at the correctional
33 institution.

34 “Therapeutic prison-based treatment” means therapeutic or
35 rehabilitative treatment, which is provided within the walls of a
36 correctional institution to inmates housed therein who have a mental
37 illness, as defined by section 2 of P.L.1987, c.116 (C.30:4-27.2), or
38 who are addicted to, or otherwise suffering physically or mentally
39 from the use or abuse of, narcotic drugs, as defined by section 2 of
40 P.L.1970, c.334 (C.26:2G-22), or alcohol.

41

42 3. Section 3 of P.L.1986, c.71 (C.30:4-82.3) is amended to read
43 as follows:

44 3. a. The plan required under section 2 of **[this act]** P.L.1986,
45 c.71 (C.30:4-82.2) shall be formulated no later than the 181st day
46 after the effective date of **[this act]** P.L.1986, c.71 (C.30:4-82.1 et
47 seq.). Pursuant to the "Administrative Procedure Act," P.L.1968,
48 c.410 (C. 52:14B-1 et seq.), the Commissioner of **[the Department**

1 of] Human Services and the Commissioner of Corrections [jointly]
2 shall jointly adopt regulations establishing the procedures
3 formulated under the plan required by section 2 of [this act]
4 P.L.1986, c.71 (C.30:4-82.2).

5 b. Immediately following the enactment of P.L. , c. (C.)
6 (pending before the Legislature as this bill), the commissioners
7 shall take joint action, as necessary, to revise and update both the
8 mental health services plan developed pursuant to section 2 of
9 P.L.1986, c.71 (C.30:4-82.2), and the associated rules and
10 regulations adopted pursuant to this section, in order to ensure that
11 the plan provisions and the rules and regulations appropriately
12 reflect, and account for, the division of authority required by
13 subsection a. of section 2 of P.L. , c. (C.) (pending before
14 the Legislature as this bill). If a plan provision, rule, or regulation
15 does not reflect the division of authority required by subsection a.
16 of section 2 of P.L. , c. (C.) (pending before the
17 Legislature as this bill), and is not revised to do so, in accordance
18 with the provisions of this subsection, the provision, rule, or
19 regulation shall be nullified or repealed, as appropriate.

20 (cf: P.L.1986, c.71, s.3)

21

22 4. This act shall take effect on the first day of the fourth month
23 following the date of enactment, except that the Commissioner of
24 Human Services and the Commissioner of Corrections may take
25 administrative action in advance thereof, as shall be necessary for
26 the implementation of this act.

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28

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STATEMENT

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31 This bill would establish an interagency system of regulation
32 applicable to therapeutic prison-based treatment centers. As
33 defined by the bill, a therapeutic prison-based treatment center
34 would include any area, facility, or sub-facility within the walls of a
35 correctional institution, which is designated or set aside as a center
36 for the provision of mental health or substance abuse treatment
37 services to persons incarcerated in that institution (inmates).

38 The bill would split regulatory authority over these treatment
39 centers between the Department of Corrections (DOC) and the
40 Division of Mental Health and Addiction Services (DMHAS) in the
41 Department of Human Services (DHS). In particular, the bill would
42 specify that the DOC will be responsible for the day-to-day
43 operation and management of therapeutic prison-based treatment
44 centers, as well as for the custodial care and supervision of inmates
45 being treated therein, while the DMHAS will be responsible for
46 providing or arranging for the provision of treatment services to
47 such inmates by DMHAS-licensed treatment providers.

1 The bill would require appropriate representatives of the DOC
2 and DMHAS to establish, and participate in, an interagency
3 oversight board to facilitate the coordination of policies and
4 procedures used in therapeutic prison-based treatment centers. In
5 addition, the DOC and DMHAS would be required to jointly adopt
6 rules and regulations applicable to these treatment centers. Any
7 such rules and regulations must reflect, and be consistent with, the
8 division of authority specified by the bill, and the respective roles
9 of the DOC and DMHAS. In developing these rules or regulations,
10 the commissioners would be required to take into consideration:

- 11 • the rights of mental health services patients and substance
12 abuse patients as set forth in law and regulation;
- 13 • the differing needs and specific characteristics of, and types
14 of treatment that are appropriate for, State-sentenced
15 incarcerated persons; and
- 16 • the security concerns associated with correctional
17 institutions, and the necessity to ensure the safety of
18 prisoners, treatment staff, custodial personnel, and others in
19 and about the therapeutic prison-based treatment center.

20 The bill would specify that the new jointly-adopted rules and
21 regulations may also incorporate the provisions of a mental health
22 services plan that was previously adopted by the DOC and DHS
23 pursuant to the provisions of P.L.1986, c.71, or the provisions of
24 joint rules and regulations associated therewith, but only if the
25 provisions to be incorporated already account for the division of
26 departmental authority required by the bill or are jointly revised by
27 the DOC and DHS to do so. Any previously adopted plan
28 provisions or rules and regulations which do not account for the
29 requisite division of authority, and which are not revised in
30 accordance with the bill's provisions, must be repealed.

31 This bill is designed to address concerns that have been raised
32 regarding the adequacy of therapeutic prison-based treatment
33 programs. In particular, it has been alleged that these programs are
34 inferior to treatment programs that are provided to non-incarcerated
35 individuals, since prison-based programs are regulated by the DOC,
36 pursuant to the agency's overarching authority over prisoners and
37 correctional institutions, and are consequently not regulated or
38 licensed by the DMHAS, which is the agency that is generally
39 responsible for the regulation of mental health and substance abuse
40 treatment programs in the State. Accordingly, in order to avoid
41 disparate treatment of persons undergoing mental health and
42 substance abuse treatment in the State, and in order to ensure that
43 treatment standards and protocols used by prison-based and non-
44 prison-based facilities are consistent, this bill would provide the
45 DMHAS with the authority to regulate the mental health and
46 substance abuse treatment that is provided in correctional
47 institutions, and additionally require the DMHAS to ensure that
48 such treatment is provided by DMHAS-licensed individuals or

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1 entities. However, the bill would preserve the DOC's primary
2 jurisdiction over the day-to-day operation and management of
3 therapeutic prison-based treatment programs and the inmates
4 engaged therein.

ASSEMBLY HUMAN SERVICES COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 3722

STATE OF NEW JERSEY

DATED: OCTOBER 28, 2014

The Assembly Human Services Committee reports favorably an Assembly Committee Substitute for Assembly Bill No. 3722.

This substitute would require the Commissioners of Human Services and Corrections to formulate a joint arrangement and plan to ensure the provision of mental health and substance use disorder services, by licensed provider organizations, to inmates housed in State-owned, operated, or contracted correctional facilities, including prisons and halfway houses.

The joint plan would be required to include: (1) procedures for identifying inmates in need of mental health and substance use disorder treatment; (2) procedures for evaluating the mental health and substance use disorder service needs of inmates; (3) procedures for providing mental health and substance use disorder treatment to inmates who are determined to be in need of such services; (4) an enumeration of the types of mental health and substance use disorder treatment that may be provided to an inmate in need; (5) procedures for the provision of medication-assisted treatment, as appropriate and available; (6) procedures for terminating treatment when no longer needed; (7) the identification of community mental health and substance use disorder treatment providers and services to be used in the community reintegration process, upon an inmate's discharge from a correctional facility; (8) procedures for ensuring inter-agency cooperation at all personnel levels and every stage of inmate identification, evaluation, treatment, and termination of treatment; (9) procedures for maintaining the confidentiality of treatment records; and (10) procedures for biennial review and plan revision.

The Department of Human Services would be required to adopt rules and regulations to establish standards and requirements for the licensure of substance use disorder treatment programs operating within these facilities.

The substitute would also authorize the Department of Human Services to develop a separate plan to address the provision of mental health and substance use disorder services to inmates in county-operated correctional facilities, in consultation with the county-

designated individual or entity having responsibility for the planning of treatment services for county inmates.

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Governor Christie Builds On Commitment To Saving Lives With Expansion of Overdose Protection Act

Thursday, February 5, 2015

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State of New Jersey
OFFICE OF THE GOVERNOR

New Law Cements Immunity Provision For First Responders To Save Even More Lives

Trenton, NJ – Building on a commitment to reclaim lives from the menace of drug addiction, Governor Christie today signed legislation expanding the bipartisan Overdose Prevention Act of 2013 by adding a provision that provides immunity to first responders. The new law cements in statute the protections for first responders taking part in the Christie Administration's lifesaving Narcan pilot program and EMS waiver in effect in communities throughout New Jersey.

The bill, S-2378, clarifies immunity provisions for administering and dispensing Narcan to individuals and programs involved in the treatment of substance abuse and those that interact with substance abusers.

"Nearly two years ago, I signed the bipartisan Overdose Prevention Act to protect those good Samaritans who attempt to help a drug overdose victim by administering overdose antidotes in life-threatening situations," said Governor Christie. "Today, we are cementing in our laws those same protections for our first responders who are doing this incredible, lifesaving work every day under our statewide Narcan program. By doing so, we will have an even greater ability to save lives, reverse the effects of overdose and prevent tragedies with this life-saving treatment."

The legislation advances the successful efforts of the Attorney General and the Commissioner of the Department of Health over the past year in implementing programs and removing regulatory barriers to enable the widespread availability of Narcan treatment.

According to the most recent statistics provided by Department of Health, 186 EMS squads have registered with the department and 245 Narcan administrations have occurred since the March 2014 waiver signed by Governor Christie.

In addition, 473 law enforcement agencies have been trained in Narcan administration and are currently carrying Narcan on patrol. More than 585 overdoses have been reversed through successful naloxone deployment.

In addition to S-2378, Governor Christie today signed two other bills that will help add to New Jersey's drug treatment and prevention efforts:

SCS for S-2373/ACS for A-3716 (Vitale, Addiego/Vainieri Huttle, Sumter, Mukherji, Mosquera, Gusciora) - Requires Division of Mental Health and Addiction Services to annually prepare substance use treatment provider performance report, and make available to public

SCS for S-2380/ACS for A-3722 (Vitale, Lesniak/Vainieri Huttle, Sumter, Mukherji, Angelini, Mosquera, Gusciora) - Requires DHS and DOC to formulate joint arrangement and plan to ensure provision of mental health and substance use disorder services to inmates

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