



**SPONSOR'S STATEMENT:** (Begins on page 4 of introduced bill) Yes

**COMMITTEE STATEMENT:**

**ASSEMBLY:** No

**SENATE:** Yes Law & Public

Safety

Budget &

Appropriations

(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](http://www.njleg.state.nj.us))

**FLOOR AMENDMENT STATEMENT:**

No

**LEGISLATIVE FISCAL ESTIMATE:**

Yes 10/30/2019  
12/19/2019

**VETO MESSAGE:**

No

**GOVERNOR'S PRESS RELEASE ON SIGNING:**

Yes

**FOLLOWING WERE PRINTED:**

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**REPORTS:**

No

**HEARINGS:**

No

**NEWSPAPER ARTICLES:**

No

RWH/JA

§§1-5 -  
C.30:1B-6.5 to  
30:1B-6.9  
§§8-13 -  
C.52:27EE-28.1  
to 52:27EE-28.6  
§14 - Note

P.L. 2019, CHAPTER 288, *approved January 9, 2020*  
Assembly Committee Substitute (*First Reprint*) for Assembly, No. 3979

1 **AN ACT** concerning incarcerated primary caretaker parents,  
2 amending P.L.2005, c.155, and supplementing Title 30 and Title  
3 52 of the Revised Statutes.

4

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

7

8 1. (New section) This act shall be known and may be cited as  
9 the “Dignity for Incarcerated Primary Caretaker Parents Act.”

10

11 2. (New section) The Legislature finds and declares:

12 a. A growing segment of the prison population typically is  
13 excluded from the criminal justice reform conversation and does not  
14 get the attention it deserves: primary caretaker parents behind bars.  
15 According to the Sentencing Project, in 2004, 52 percent of inmates  
16 in state prisons and 63 percent in federal prisons were parents of  
17 minor children. Most parents in prison are fathers, but the rate of  
18 female incarceration in America is growing at an alarming  
19 rate. While the number of fathers in prison increased 76 percent  
20 between 1991 and 2007, the number of mothers in prison increased  
21 by 122 percent during that period.

22 b. Presumably, the considerable growth in incarcerated parents  
23 represents a considerable growth in incarcerated primary caretaker  
24 parents. This is significant because these parents face unique  
25 challenges. Their incarceration is not their burden to alone share; it  
26 also greatly impacts their family. Many incarcerated primary  
27 caretaker parents also are faced with difficult and competing  
28 choices, like whether to use their limited funds to communicate  
29 with their children or in the case of female inmates, to purchase  
30 hygiene products in the commissary.

31 c. Therefore, it is necessary to create a strengthened  
32 Corrections Ombudsperson in the Office of the Corrections  
33 Ombudsperson to enforce the rights of inmates, provide access to  
34 the benefits to which they are entitled, and ensure accountability,

**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:

<sup>1</sup>Senate SBA committee amendments adopted December 5, 2019.

1 transparency, monitoring, and continued improvements within all  
2 correctional facilities.

3 d. It is time for this State to focus on its incarcerated primary  
4 caretaker parents and provide them with the protections they  
5 deserve.

6

7 3. (New section) As used in this act:

8 “Department” means the Department of Corrections.

9 “Isolated confinement” means the confinement of an inmate in a  
10 correctional facility, pursuant to disciplinary, administrative,  
11 protective, investigative, medical, or other classification, in a cell or  
12 similarly confined holding or living space, alone or with other  
13 inmates, for approximately 23 hours or more per day, with severely  
14 restricted activity, movement, and social interaction, and shall  
15 include, but not be limited to, administrative segregation,  
16 disciplinary segregation, solitary confinement, and protective  
17 segregation.

18 “Office” means the Office of the Corrections Ombudsman.

19 “Primary caretaker parent” means any inmate who has a child  
20 under the age of 18, who prior to the inmate’s incarceration, spent  
21 the majority of days in the care of the inmate parent, and whose  
22 access to that child has not been terminated by court order, the  
23 inmate’s own request, or other circumstance.

24 “Restraint” mean any physical restraint or mechanical device  
25 used to control the movement of a inmate’s or detainee’s body and  
26 limbs, including, but not limited to, shackles, flex cuffs, soft  
27 restraints, hard metal handcuffs, a black box, Chubb cuffs, leg  
28 irons, belly chains, a security or tether chain, or a convex shield.

29

30 4. (New section) The Commissioner of Corrections shall:

31 a. place an inmate who has a minor child in a State correctional  
32 facility as close as possible to that child’s place of residence at the  
33 request of the inmate and prior to sentencing;

34 b. establish policies that encourage and promote visitation,  
35 particularly for inmates who are primary caretaker parents,  
36 including, but not limited to:

37 (1) requiring the visitation program be in operation at least six  
38 days per week, including Saturday and Sunday, for at least <sup>1</sup>**four**  
39 three<sup>1</sup> hours per visit;

40 (2) prohibiting restrictions on the number of minor children  
41 allowed to visit an inmate;

42 (3) authorizing up to three adult visitors; and

43 (4) authorizing contact visits;

44 c. prohibit the isolated confinement of a pregnant woman;

45 d. prohibit a staff member of, or medical service provider for, a  
46 correctional facility from restraining a woman known to be

- 1 pregnant or applying restraints during any stage of labor, any  
2 pregnancy related medical distress, delivery, or postpartum;
- 3 e. provide parenting classes to primary caretaker parents;
- 4 f. provide appropriate trauma informed care to inmates who  
5 are primary caretaker parents and train correctional police officers  
6 on how to interact with inmates who are victims of trauma;
- 7 g. allow former inmates who have returned to society, after  
8 appropriate internal clearance, to mentor current inmates who are  
9 incarcerated primary caretaker parents and assist these inmates with  
10 reentry efforts;
- 11 h. require standard feminine hygiene products, including but  
12 not limited to, tampons and sanitary pads, be provided at the request  
13 of and free of charge to female inmates, and petroleum jelly,  
14 aspirin, ibuprofen, and any other item deemed appropriate by the  
15 commissioner, to be made available to inmates from the  
16 commissary or medical department;
- 17 i. restrict correctional police officers and other department  
18 employees from entering the restrooms and shower facilities of  
19 inmates of the opposite sex when occupied except when deemed  
20 necessary by the commissioner; and
- 21 j. allow all pregnant women and inmates who are primary  
22 caretaker parents to enroll in residential drug abuse and mental  
23 health programs provided they meet the requirements of those  
24 programs.
- 25
- 26 5. (New section) The chief executive officer or warden of each  
27 county correctional facility shall:
- 28 a. establish policies that encourage and promote visitation,  
29 particularly for inmates who are primary caretaker parents,  
30 including, but not limited to:
- 31 (1) requiring in-person visitation three days per week, including  
32 Saturday and Sunday, for at least 30 minutes per visit;
- 33 (2) prohibiting restrictions on the number of children allowed to  
34 visit an inmate consistent with current regulations;
- 35 (3) authorizing up to two adult visitors; and
- 36 (4) providing consistent access to contact visits;
- 37 (5) authorizing contact visits with children;
- 38 b. prohibit the isolated confinement of a pregnant woman;
- 39 c. prohibit a staff member of, or medical service provider for, a  
40 county correctional facility from restraining a woman known to be  
41 pregnant or applying restraints during any stage of labor, any  
42 pregnancy related medical distress, delivery, or postpartum;
- 43 d. provide parenting classes to inmates who are primary  
44 caretaker parents;
- 45 e. provide trauma informed care to inmates who are primary  
46 caretaker parents and train correctional police officers on how to  
47 interact with inmates who are victims of trauma;

1 f. allow former inmates who are participating members of a  
2 non-profit or reentry organization mentorship or visitation program  
3 approved by the chief executive officer or warden to mentor current  
4 inmates who are incarcerated primary caretaker parents and assist  
5 these inmates with reentry efforts;

6 g. require standard feminine hygiene products, including but  
7 not limited to tampons and sanitary pads, be provided at the request  
8 of and free of charge to female inmates, and petroleum jelly,  
9 aspirin, ibuprofen, and any other item deemed appropriate by the  
10 chief executive officer or warden, to be provided at the request of  
11 and free of charge to inmates;

12 h. restrict correctional police officers and other department  
13 employees from entering the restrooms and shower facilities of  
14 inmates of the opposite sex when occupied except when deemed  
15 necessary by the chief executive officer or warden; and

16 i. allow all pregnant women and inmates who are primary  
17 caretaker parents to enroll in residential drug abuse and mental  
18 health programs provided they meet the requirements of those  
19 programs.

20  
21 6. Section 26 of P.L.2005 (C.52:27EE-26) is amended to read  
22 as follows:

23 26. Office of Corrections Ombudsperson; transfer of functions.

24 a. All functions, powers, and duties now vested in the  
25 Corrections Ombudsperson in the Department of the Public  
26 Advocate are hereby transferred to and assumed by the Office of the  
27 Corrections Ombudsperson in, but not of, the Department of the  
28 Treasury. **【The Corrections Ombudsperson shall be appointed by**  
29 **the Governor.】** For the purposes of complying with the provisions  
30 of Article V, Section IV, paragraph 1 of the New Jersey  
31 Constitution, the Office of the Corrections Ombudsperson is hereby  
32 allocated to the Department of the Treasury, but, notwithstanding  
33 this allocation, the **【ombudsperson】** Office of the Ombudsperson  
34 shall be independent of any supervision or control by the  
35 **【department】** Department of Treasury or by any board or officer  
36 thereof.

37 b. Whenever, in any law, rule, regulation, order, reorganization  
38 plan, contract, document, judicial, or administrative proceeding, or  
39 otherwise, reference is made to the Corrections Ombudsperson in  
40 the Department of the Public Advocate the same shall mean and  
41 refer to the Office of the Corrections Ombudsperson in, but not of,  
42 the Department of the Treasury.

43 c. The office shall be responsible for:

44 (1) providing information to inmates and their families;

45 (2) promoting public awareness and understanding of the rights  
46 of inmates;

- 1     (3) identifying systemic issues and responses upon which the  
2 Governor and Legislature may act; and
- 3     (4) ensuring compliance with relevant statutes, rules,  
4 regulations, and policies concerning corrections facilities, services,  
5 and treatment of inmates under the jurisdiction of the department.
- 6     d. The Corrections Ombudsperson shall serve as the head of  
7 the Office of the Corrections Ombudsperson.
- 8     (1) The corrections ombudsperson shall be appointed by the  
9 Governor from qualified persons of recognized judgment,  
10 independence, objectivity, and integrity, who are qualified by  
11 training or experience in corrections law and policy.
- 12     (2) A person shall be disqualified from being appointed as  
13 ombudsperson if the person or the person's spouse:
- 14         (a) is or has been employed by or participates in the  
15 management of a business entity or other organization receiving  
16 funds from the department within the last five years;
- 17         (b) owns or controls, directly or indirectly, any interest in a  
18 business entity or other organization receiving funds from the  
19 department within the last five years;
- 20         (c) uses or receives any amount of tangible goods, services, or  
21 funds from the department; or
- 22         (d) is required to register as a lobbyist because of the person's  
23 activities for compensation on behalf of a profession related to the  
24 operation of the department or the office.
- 25     e. The corrections ombudsperson shall hold the office for a  
26 term of five years and continue to hold the office until reappointed  
27 or the appointment of a successor. The Governor may remove the  
28 ombudsperson only for neglect of duty, misconduct, or the inability  
29 to perform duties. Any vacancy shall be filled by similar  
30 appointment for the remainder of the unexpired term.
- 31     f. The corrections ombudsperson shall report directly to the  
32 Governor.
- 33     g. The office shall be adequately funded and staffed with the  
34 requisite number of employees with expertise and training  
35 necessary to carry out the duties of the office.
- 36     h. The corrections ombudsperson may employ assistants to  
37 perform duties and exercise the same powers as the ombudsperson.
- 38     i. A person may not serve as an assistant corrections  
39 ombudsperson or employee of the office if the person or the  
40 person's spouse:
- 41         (a) is or has been employed by or participates in the  
42 management of a business entity or other organization receiving  
43 funds from the Department within the last five years;
- 44         (b) owns or controls, directly or indirectly, any interest in a  
45 business entity or other organization receiving funds from the  
46 department within the last five years;

1     (c) uses or receives any amount of tangible goods, services, or  
2 funds from the department; or

3     (d) is required to register as a lobbyist because of the person's  
4 activities for compensation on behalf of a profession related to the  
5 operation of the department or the office.

6     j. The corrections ombudsperson may employ technical experts  
7 and other employees or consultants necessary to perform the duties  
8 of the office.

9 (cf: P.L.2010, c.34, s.24)

10  
11     7. Section 28 of P.L.2005 (C.52:27EE-28) is amended to read  
12 as follows:

13     28. Corrections Ombudsperson; duties.

14     a. The Corrections Ombudsperson shall establish and  
15 implement procedures for eliciting, receiving, processing,  
16 responding, and resolving complaints from inmates, their families,  
17 other interested citizens, public officials, and government agencies  
18 concerning conditions in the correctional facilities noted in section  
19 27 of [this act] of P.L.2005 (C. 52:27EE-27).

20     b. To implement the provisions of P.L. c. (pending before  
21 the Legislature as this bill), the ombudsperson shall:

22         (1) establish priorities for use of the resources available to the  
23 ombudsperson;

24         (2) maintain a Statewide toll-free telephone number, a collect  
25 telephone number, a website, and a mailing address for the receipt  
26 of complaints and inquiries;

27         (3) provide information, as appropriate, to inmates, family  
28 members and representatives of inmates, department employees,  
29 and others regarding the rights of inmates;

30         (4) provide technical assistance to support inmate participation  
31 in self-advocacy;

32         (5) monitor compliance with applicable federal, State, county,  
33 and municipal laws, rules, regulations, and policies related to the  
34 health, safety, welfare, and rehabilitation of inmates;

35         (6) monitor and participate in legislative and policy  
36 developments affecting correctional facilities;

37         (7) establish a Statewide uniform reporting system to collect and  
38 analyze data related to complaints received by the ombudsperson  
39 regarding the department;

40         (8) establish procedures to receive, investigate, and resolve  
41 complaints;

42         (9) establish procedures to gather stakeholder input into the  
43 ombudsperson's activities and priorities, which shall include  
44 holding public meetings at least quarterly;

45         (10) by November 1st of each year, annually submit to the  
46 Governor's office and the Legislature, and make publicly available,



- 1 a report that is both aggregated and disaggregated by each facility  
2 and includes, at a minimum, the following information:
- 3 (a) the budget and expenditures of the ombudsperson;
  - 4 (b) the number of complaints received and resolved by the  
5 ombudsperson;
  - 6 (c) a description of significant systemic or individual  
7 investigations or outcomes achieved by the ombudsperson in the  
8 preceding year;
  - 9 (d) any outstanding or unresolved concerns or recommendations  
10 of the ombudsperson; and
  - 11 (e) input and comments from stakeholders regarding the  
12 ombudsperson's activities during the preceding year.
- 13 (11) promote awareness among department employees, inmates,  
14 and family members and other members of the public regarding:
- 15 (a) how the Office of Corrections Ombudsperson may be  
16 contacted;
  - 17 (b) the purpose of the office; and
  - 18 (c) the services provided by the office.
- 19 (12) provide assistance to an inmate or family member whom  
20 the ombudsperson determines is in need of assistance, including  
21 advocating with an agency, provider, or other person in the best  
22 interests of the inmate;
- 23 (13) make appropriate referrals under any of the powers and  
24 duties of the office, including to appropriate law enforcement  
25 authorities when criminal complaints by inmates are received by the  
26 office;
- 27 (14) attend any relevant training provided to correctional  
28 officers and participate in other appropriate professional training;
- 29 (15) notwithstanding any other provision of law to the contrary,  
30 review criminal investigations to ensure the investigations were  
31 accurate, unbiased, and thorough without investigating alleged  
32 criminal behavior; and
- 33 (16) adopt and comply with rules, policies, and procedures  
34 necessary to implement the provisions of P.L. c. (pending  
35 before the Legislature as this bill).  
36 (cf: P.L.2005, c.155, s.28)
- 37
- 38 8. (New section) The corrections ombudsperson shall conduct  
39 investigations of inmate complaints in accordance with the  
40 provisions of this section.
- 41 a. The ombudsperson may initiate and attempt to resolve an  
42 investigation upon the ombudsperson's own initiative, or upon  
43 receipt of a complaint from an inmate, a family member, a  
44 representative of an inmate, a department employee, or any other  
45 person, including but not limited to any of the following that may  
46 adversely affect the health, safety, welfare, or rights of inmates:
    - 47 (1) abuse or neglect;

- 1 (2) department decisions or administrative actions;
- 2 (3) inactions or omissions;
- 3 (4) policies, rules, or procedures; or
- 4 (5) alleged violations of law by the department that may
- 5 adversely affect the health, safety, welfare, or rights of inmates.
- 6 b. If the ombudsperson does not investigate a complaint, the
- 7 ombudsperson shall notify the complainant of the decision not to
- 8 investigate and the reasons for the decision.
- 9 c. The ombudsperson shall not investigate any complaints
- 10 relating to an inmate's underlying criminal conviction.
- 11 d. The ombudsperson shall not investigate a complaint from a
- 12 department employee that relates to the employee's employment
- 13 relationship with the department or the administration of the
- 14 department, unless the complaint is related to the health, safety,
- 15 welfare, and rehabilitation of inmates.
- 16 e. The ombudsperson shall attempt to resolve any complaint at
- 17 the lowest possible level.
- 18 f. The ombudsperson may refer complainants and others to
- 19 appropriate resources, agencies, or departments.
- 20 g. The ombudsperson shall not impose any fee for the
- 21 submission or investigation of complaints.
- 22 h. The ombudsperson shall remain neutral and impartial and
- 23 shall not act as an advocate for the complainant or for the
- 24 department.
- 25 i. At the conclusion of an investigation of a complaint, the
- 26 ombudsperson shall render a public decision on the merits of each
- 27 complaint, except that the documents supporting the decision are
- 28 subject to relevant confidentiality provisions. The ombudsperson
- 29 shall communicate the decision to the inmate, if appropriate, and to
- 30 the department. The ombudsperson shall state its recommendations
- 31 and reasoning if, in the ombudsperson's opinion, the department or
- 32 any employee should:
  - 33 (1) further consider the matter;
  - 34 (2) modify or cancel any action;
  - 35 (3) alter a rule, practice, or ruling;
  - 36 (4) explain in detail the administrative action in question; or
  - 37 (5) rectify an omission.
- 38 j. At the ombudsperson's request, the department shall, within
- 39 the time specified, inform the ombudsperson about any action taken
- 40 on the recommendations or the reasons for not complying with the
- 41 recommendations.
- 42 k. If the ombudsperson concludes, based on the investigation,
- 43 that there has been, or continues to be, a significant issue regarding
- 44 an inmate's health, safety, welfare, or rehabilitation, the
- 45 ombudsperson shall report the finding to the Governor and the
- 46 Legislature.

1       l. Before announcing a conclusion or recommendation that  
2 expressly, or by implication, criticizes a person or the department,  
3 the ombudsperson shall consult with that person or the department.  
4 The ombudsperson may request to be notified by the department,  
5 within a specified time, of any action taken on any recommendation  
6 presented. The ombudsperson shall notify the inmate, if appropriate,  
7 of the actions taken by the department in response to the  
8 ombudsperson's recommendations.

9       m. The ombudsperson shall make available to inmates  
10 confidential means by which to report concerns or otherwise submit  
11 complaints to the ombudsperson, which may include electronic  
12 means or a locked box, accessible only by the ombudsperson and  
13 the employees of the ombudsperson. All measures shall be taken to  
14 ensure there is no risk or credible fear of retaliation against inmates  
15 for submitting complaints to the ombudsperson.

16       n. Submission of complaints to the ombudsperson shall not be  
17 part of the department administrative grievance or appeal process,  
18 and the ombudsperson's decisions shall not constitute agency  
19 action. Nothing in this section shall be deemed to constitute part of  
20 the administrative exhaustion process. The ombudsperson shall not  
21 require inmates to file grievances or other inquiries as part of the  
22 department's system to be considered ripe for review by the  
23 ombudsperson.

24

25       9. (New section) The corrections ombudsperson shall conduct  
26 inspections of State correctional facilities in accordance with the  
27 provisions of this section.

28       a. The ombudsperson shall conduct regular inspections of all  
29 department facilities and issue public reports of all inspections.

30       b. <sup>1</sup>【The】 Except for ongoing criminal investigations, Prison  
31 Rape Elimination Act (PREA) investigations, or other information,  
32 records, or investigations deemed confidential by the Special  
33 Investigations Division of the department, and with the exception of  
34 Special Investigations Division evidence rooms, the<sup>1</sup> ombudsperson  
35 may inspect, examine, or assess all aspects of a facility's operations  
36 and conditions including, but not limited to:

37       (1) staff recruitment, training, supervision, and discipline;

38       (2) inmate deaths or serious injuries;

39       (3) incidences of physical and sexual assault;

40       (4) medical and mental-health care;

41       (5) use of force;

42       (6) inmate violence;

43       (7) conditions of confinement;

44       (8) inmate disciplinary processes;

45       (9) inmate grievance processes;

46       (10) substance-abuse treatment;

- 1 (11) educational, vocational, and other programming;
- 2 (12) family visitation and communication practices; and
- 3 (13) rehabilitation, reentry, and integration practices.
- 4 c. ~~1~~ **1** Except as provided in subsection b. of this section,
- 5 the<sup>1</sup> ombudsperson shall utilize a range of methods to gather and
- 6 substantiate facts, including observations, interviews with inmates,
- 7 inmate surveys, document and record reviews, ~~1~~ **1** video and tape
- 8 recordings,<sup>1</sup> reports, statistics, and performance-based outcome
- 9 measures.
- 10 d. Facility and other governmental officials are authorized and
- 11 shall be required to cooperate fully and promptly with inspections.
- 12 e. ~~1~~ **1** Except as provided in subsection b. of this section,
- 13 the<sup>1</sup> ombudsperson shall be vested with the authority to conduct
- 14 both scheduled and unannounced inspections of any part or all of
- 15 the facility at any time. The ombudsperson shall adopt procedures
- 16 to ensure that unannounced inspections are conducted in a
- 17 reasonable manner.
- 18 f. Facility administrators shall be provided an opportunity to
- 19 review reports and provide feedback about them to the
- 20 ombudsperson before their dissemination to the public, but the
- 21 release of the reports is not subject to approval from any entity or
- 22 person outside the office.
- 23 g. Reports shall apply legal requirements, best correctional
- 24 practices, and other criteria to objectively and accurately review and
- 25 assess a facility's policies, procedures, programs, and practices;
- 26 identify systemic problems and the reasons for them; and proffer
- 27 possible solutions to those problems.
- 28 h. Subject to reasonable privacy and security requirements, ~~1~~ **1** or
- 29 as may be necessary to protect the safety or privacy of persons or
- 30 the safe, secure, and orderly operation of State correctional
- 31 facilities, as determined by the department or the Special
- 32 Investigations Division,<sup>1</sup> the ombudsperson's reports shall be
- 33 public, accessible through the Internet, and distributed to the media,
- 34 Legislature, Attorney General, and Governor.
- 35 i. Facility administrators shall publicly respond to monitoring
- 36 reports; develop and implement in a timely fashion action plans to
- 37 rectify problems identified in those reports; and to semi-annually
- 38 inform the public of their progress in implementing these action
- 39 plans.
- 40 j. The ombudsperson shall continue to assess and report on
- 41 previously identified problems and the progress made in resolving
- 42 them until the problems are resolved.
- 43
- 44 10. (New section) The corrections ombudsperson shall be
- 45 provided access to correctional facilities and inmate records in
- 46 accordance with the provisions of this section.

1 a. <sup>1</sup>**[The]** Subject to the provisions of subsection b. of this  
2 section, and except as provided in subsection b. of section 9 of  
3 P.L. c. (C. ) (pending before the Legislature as this bill),  
4 the<sup>1</sup> ombudsperson shall have reasonable access to correctional  
5 facilities at all times necessary to <sup>1</sup>**[conduct]** ensure that<sup>1</sup> a full  
6 investigation of an incident of abuse or neglect <sup>1</sup>**[or to conduct a**  
7 facility inspection, including the opportunity to interview any  
8 inmate, department employee, or other person, or the alleged victim  
9 of abuse who is reasonably believed by the facility to have  
10 knowledge relevant to an inspection or incident under  
11 investigation] has been conducted<sup>1</sup>.

12 b. <sup>1</sup>**[Access]** Except as provided in subsection b. of section 9  
13 of P.L. c. (C. ) (pending before the Legislature as this  
14 bill), access<sup>1</sup> to investigate a complaint shall be afforded when:

- 15 (1) an incident is reported or a complaint is made to the office;  
16 (2) the ombudsperson <sup>1</sup>reasonably<sup>1</sup> determines there is  
17 <sup>1</sup>**[probable]**<sup>1</sup> cause to believe that an incident has or may have  
18 occurred; <sup>1</sup>**[or]**<sup>1</sup>  
19 (3) the ombudsperson determines that there is or may be  
20 imminent danger of serious abuse or neglect of an inmate<sup>1</sup>;  
21 (4) the ombudsperson has referred the incident or complaint to  
22 the department for investigation; and  
23 (5) the department has declined to investigate the incident or  
24 complaint<sup>1</sup>.

25 c. <sup>1</sup>**[The]** Except as provided in subsection b. of section 9 of  
26 P.L. c. (C. ) (pending before the Legislature as this bill),  
27 the<sup>1</sup> ombudsperson shall have reasonable access to all department  
28 facilities, including all areas which are used by inmates, all areas  
29 which are accessible inmates, and to programs for inmates for the  
30 purpose of:

- 31 (1) providing information about person's rights and the services  
32 available from the office, including the name, address, and  
33 telephone number of the office; <sup>1</sup>and<sup>1</sup>  
34 (2) monitoring compliance with respect to the rights and safety  
35 of inmates<sup>1</sup>; and  
36 (3) inspecting, viewing, photographing, and video recording all  
37 areas of the facility]<sup>1</sup>.

38 d. <sup>1</sup>**[The]** Except as provided in subsection b. of section 9 of  
39 P.L. c. (C. ) (pending before the Legislature as this bill),  
40 the<sup>1</sup> ombudsperson shall be vested with the authority to regularly  
41 meet, interview, and privately and confidentially communicate with  
42 any person, including staff and inmates, both formally and  
43 informally, by telephone, mail, and in person.

44 e. <sup>1</sup>**[The]** Except as provided in subsection b. of section 9 of  
45 P.L. c. (C. ) (pending before the Legislature as this bill),

1 the<sup>1</sup> ombudsperson has the right to access, inspect, and copy all  
2 relevant information, records, or documents in the possession or  
3 control of the department that the ombudsperson considers  
4 necessary in an investigation of a complaint or the inspection of a  
5 facility <sup>1</sup>['], including confidential Special Investigation Division  
6 reports and records<sup>1</sup>. <sup>1</sup>['The'] Except as provided in subsection b.  
7 of section 9 of P.L. c. (C. ) (pending before the  
8 Legislature as this bill), the<sup>1</sup> department <sup>1</sup>['shall'] may, upon the  
9 request of the ombudsperson,<sup>1</sup> assist the ombudsperson in obtaining  
10 <sup>1</sup>['the necessary']<sup>1</sup> releases for those documents which are  
11 specifically restricted or privileged for use by the ombudsperson<sup>1</sup>,  
12 provided however, the department shall not be liable in the case of a  
13 refusal to execute a release<sup>1</sup>.

14 f. <sup>1</sup>['Following'] Except as provided in subsection b. of section  
15 9 of P.L. c. (C. ) (pending before the Legislature as this  
16 bill), following<sup>1</sup> notification from the ombudsperson with a written  
17 demand for access to agency records, the delegated department staff  
18 shall provide the ombudsperson with access to the requested  
19 documentation not later than 20 business days after the  
20 ombudsperson's request. <sup>1</sup>['If the records requested by the  
21 <sup>ombudsperson pertain to an inmate death, threats of bodily harm</sup>  
22 <sup>including, but not limited to, sexual or physical assaults, or the</sup>  
23 <sup>denial of necessary medical treatment, the records shall be provided</sup>  
24 <sup>within five days unless the ombudsperson consents to an extension</sup>  
25 <sup>of that timeframe.】</sup><sup>1</sup>

26 g. Upon notice and request by the ombudsperson, a State,  
27 county, or municipal government agency or entity that has records  
28 relevant to a complaint or an investigation conducted by the  
29 ombudsperson shall provide the ombudsperson with access to the  
30 records.

31 h. The ombudsperson shall work with the department to  
32 minimize disruption to the department's operations due to  
33 ombudsperson activities and shall comply with the department's  
34 security clearance processes, provided those processes do not  
35 impede the ombudsperson from carrying out the responsibilities set  
36 forth in this section.

37 i. The ombudsperson shall be authorized to hold public  
38 hearings, to subpoena witnesses and documents, and to require that  
39 witnesses testify under oath.

40 j. The ombudsperson shall enact procedures to enable facility  
41 administrators, line staff, inmates, and others to transmit  
42 information confidentially to the monitoring entity about the  
43 facility's operations and conditions. Adequate safeguards shall be  
44 established to protect persons who transmit information to the  
45 monitoring entity from retaliation and threats of retaliation.

1 k. Facility and other governmental officials shall be authorized  
2 and required to cooperate fully and promptly with the  
3 ombudsperson. To the greatest extent possible and consistent with  
4 the ombudsperson's duties and responsibilities under  
5 P.L. c. (C. ) (pending before the Legislature as this bill),  
6 the ombudsperson shall collaboratively and constructively work  
7 with administrators, legislators, and other appropriate persons to  
8 improve the facility's operations and conditions.

9  
10 11. (New section) Correspondence and communication with  
11 the corrections ombudsperson shall be confidential and protected as  
12 privileged correspondence in the same manner as legal  
13 correspondence or communication.

14 a. The ombudsperson shall establish confidentiality rules and  
15 procedures for all information maintained by the office.

16 b. The ombudsperson shall treat all matters under investigation,  
17 including the identities of recipients of ombudsperson services,  
18 complainants, and persons from whom information is acquired, as  
19 confidential, except as far as disclosures may be necessary to enable  
20 the ombudsperson to perform the duties of the office and to support  
21 any recommendations resulting from an investigation. Upon receipt  
22 of information that, by law, is confidential or privileged, the  
23 ombudsperson shall maintain the confidentiality of the information  
24 and shall not further disclose or disseminate the information except  
25 as provided by applicable federal or State law or as authorized by  
26 this section.

27 c. To the extent the ombudsperson reasonably believes  
28 necessary, the ombudsperson:

29 (1) shall reveal information obtained in the course of providing  
30 services to prevent reasonably certain death or substantial bodily  
31 harm; and

32 (2) may reveal information obtained in the course of providing  
33 ombudsperson services to prevent the commission of a crime.

34 d. If the ombudsperson believes it is necessary to reveal  
35 investigative records pursuant to subsection c. of this section, the  
36 ombudsperson shall provide a copy of what is intended to be  
37 disclosed to the department for review and application of legal  
38 exemptions prior to releasing the records to any other person. If the  
39 ombudsperson personally receives identifying information  
40 concerning a member of the corrections staff during the course of  
41 an investigation that the ombudsperson determines is unrelated or  
42 unnecessary to the subject of the investigation or recommendation  
43 for action, the ombudsperson shall not further disclose the  
44 information. If the ombudsperson determines that the disclosure is  
45 necessary to an investigation or recommendation, the ombudsperson  
46 shall contact the staff member, as well as the bargaining unit  
47 representative. before any disclosure.

1       12. (New section) A civil action shall not be brought against  
2 any employee of the Office of the Ombudsperson for the good faith  
3 performance of responsibilities under P.L. c. (pending before  
4 the Legislature as this bill).

5       a. A discriminatory, disciplinary, or retaliatory action shall not  
6 be taken against a department employee, subcontractor, or  
7 volunteer, an inmate, or a family member or representative of an  
8 inmate for any communication made, or information given or  
9 disclosed, to aid the office in carrying out its responsibilities, unless  
10 the communication or information is made, given, or disclosed  
11 maliciously or without good faith.

12       b. This section is not intended to infringe on the rights of an  
13 employer to supervise, discipline, or terminate an employee for  
14 other reasons.

15  
16       13. (New section) An advisory board shall be established to  
17 advise the Office of the Corrections Ombudsperson. The Governor  
18 shall appoint three positions, the President of the Senate shall  
19 appoint three positions, and the Speaker of the General Assembly  
20 shall appoint three positions. The advisory board shall designate  
21 positions for representatives of the following areas of expertise:  
22 investigations, health care, sexual assault victims' advocacy, social  
23 work, occupational safety and health, and research and data  
24 analysis. At least one position on the advisory board shall be filled  
25 by a family member of an inmate or by a formerly incarcerated  
26 person.

27  
28       14. This act shall take effect on the first day of the seventh  
29 month next following enactment.

30

31

32

33

34       \_\_\_\_\_

“Dignity for Incarcerated Primary Caretaker Parents Act.”



# ASSEMBLY, No. 3979

## STATE OF NEW JERSEY 218th LEGISLATURE

INTRODUCED MAY 17, 2018

**Sponsored by:**

**Assemblywoman YVONNE LOPEZ**

**District 19 (Middlesex)**

**Assemblywoman VALERIE VAINIERI HUTTLE**

**District 37 (Bergen)**

**Assemblywoman VERLINA REYNOLDS-JACKSON**

**District 15 (Hunterdon and Mercer)**

**Co-Sponsored by:**

**Assemblymen Giblin and Holley**

**SYNOPSIS**

“Dignity for Incarcerated Primary Caretaker Parents Act.”

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 3/19/2019)**

1 AN ACT concerning incarcerated primary caretaker parents and  
2 supplementing Title 30 of the Revised Statutes.

3

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

6

7 1. This act shall be known and may be cited as the “Dignity for  
8 Incarcerated Primary Caretaker Parents Act.”

9

10 2. The Legislature finds and declares:

11 a. A growing segment of the prison population typically is  
12 excluded from the criminal justice reform conversation and does not  
13 get the attention it deserves: primary caretaker parents behind bars.  
14 According to the Sentencing Project, in 2004, 52 percent of inmates  
15 in state prisons and 63 percent in federal prisons were parents of  
16 minor children. Most parents in prison are fathers, but the rate of  
17 female incarceration in America is growing at an alarming rate.  
18 While the number of fathers in prison increased 76 percent between  
19 1991 and 2007, the number of mothers in prison increased by 122  
20 percent during that period.

21 b. Presumably, the considerable growth in incarcerated parents  
22 represents a considerable growth in incarcerated primary caretaker  
23 parents. This is significant because these parents face unique  
24 challenges. Their incarceration is not their burden to alone share; it  
25 also greatly impacts their family. Many incarcerated primary  
26 caretaker parents also are faced with difficult and competing  
27 choices, like whether to use their limited funds to call home to talk  
28 with their children or to purchase hygiene products in the  
29 commissary.

30 c. It is time for this State to focus on its incarcerated primary  
31 caretaker parents and provide them with the protections they  
32 deserve.

33

34 3. The Commissioner of Corrections shall:

35 a. place an inmate who has a child in a correctional facility as  
36 close as possible to that child’s place of residence;

37 b. establish policies that encourage and promote visitation,  
38 particularly for inmates who are primary caretaker parents,  
39 including, but not limited to:

40 (1) requiring visitation at least six days per week, including  
41 Saturday and Sunday, for at least eight hours per day;

42 (2) prohibiting restrictions on the number of children allowed to  
43 visit an inmate;

44 (3) creating an overnight visit pilot program for inmates and  
45 their children;

46 (4) authorizing up to five adult visitors; and

47 (5) authorizing contact visits;

48 c. prohibit the solitary confinement of pregnant women;

- 1 d. prohibit the shackling of pregnant women;
  - 2 e. provide parenting classes to inmates who are primary  
3 caretaker parents;
  - 4 f. provide trauma informed care to inmates who are primary  
5 caretaker parents and train correctional police officers on how to  
6 interact with inmates who are victims of trauma;
  - 7 g. allow former inmates who have returned to society to mentor  
8 current inmates who are incarcerated primary caretaker parents and  
9 assist these inmates with reentry efforts;
  - 10 h. require feminine hygiene products that meet industry  
11 standards, including but not limited to, multiple sizes of tampons,  
12 sanitary pads, and liners; vaseline, aspirin, ibuprofen, and any other  
13 item deemed appropriate by the commissioner, be provided at the  
14 request of and free of charge to inmates;
  - 15 i. appoint an ombudsman to monitor allegations by inmates of  
16 the following:
    - 17 (1) physical abuse, including but not limited to sexual abuse and  
18 sexual assault;
    - 19 (2) abuse in segregated housing;
    - 20 (3) abuse in strip searches;
    - 21 (4) abuse in prisoner transportation;
    - 22 (5) malnutrition; and
    - 23 (6) failure to make available the feminine hygiene products  
24 required in subsection h. of this section;
  - 25 j. prohibit charging inmates for telephone calls and make  
26 video conferencing available at every facility free of charge;
  - 27 k. restrict corrections officers and other department employees  
28 from entering restrooms of inmates of the opposite sex except when  
29 deemed necessary by the commissioner; and
  - 30 l. allow all pregnant women and inmates who are primary  
31 caretaker parents to enroll in residential drug abuse programs.  
32
- 33 4. The chief executive officer of each county correctional  
34 facility shall:
- 35 a. place an inmate who has a child in a correctional facility as  
36 close as possible to that child's place of residence;
  - 37 b. establish policies that encourage and promote visitation,  
38 particularly for inmates who are primary caretaker parents,  
39 including, but not limited to:
    - 40 (1) requiring visitation at least six days per week, including  
41 Saturday and Sunday, for at least eight hours per day;
    - 42 (2) prohibiting restrictions on the number of children allowed to  
43 visit an inmate;
    - 44 (3) creating an overnight visit pilot program for inmates and  
45 their children;
    - 46 (4) authorizing up to five adult visitors; and
    - 47 (5) authorizing contact visits;
  - 48 c. prohibit the solitary confinement of pregnant women;

- 1 d. prohibit the shackling of pregnant women;
- 2 e. provide parenting classes to inmates who are primary  
3 caretaker parents;
- 4 f. provide trauma informed care to inmates who are primary  
5 caretaker parents and train correctional police officers on how to  
6 interact with inmates who are victims of trauma;
- 7 g. allow former inmates who have returned to society to mentor  
8 current inmates who are incarcerated primary caretaker parents and  
9 assist these inmates with reentry efforts;
- 10 h. require feminine hygiene products that meet industry  
11 standards, including but not limited to, multiple sizes of tampons,  
12 sanitary pads, and liners; vaseline, aspirin, ibuprofen, and any other  
13 item deemed appropriate by the commissioner, be provided at the  
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  - 20 (3) abuse in strip searches;
  - 21 (4) abuse in prisoner transportation;
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24 required in subsection h. of this section;
- 25 j. prohibit charging inmates for telephone calls and make  
26 video conferencing available at every facility free of charge;
- 27 k. restrict corrections officers and other department employees  
28 from entering restrooms of inmates of the opposite sex except when  
29 deemed necessary by the commissioner; and
- 30 l. allow all pregnant women and inmates who are primary  
31 caretaker parents to enroll in residential drug abuse programs.

32  
33 5. This act shall take effect on the first day of the seventh  
34 month next following enactment.  
35  
36

#### 37 STATEMENT

38  
39 This bill establishes the “Dignity for Incarcerated Primary  
40 Caretaker Parents Act” to focus on incarcerated parents in State and  
41 county correctional facilities who are primary caretakers of children  
42 and provide these parents with the protections they deserve.  
43 The bill requires the Commissioner of Corrections and the chief  
44 executive officer of each county correctional facility in this State to  
45 adopt various policies concerning primary caretakers of children.  
46 An inmate who has a child is to be placed in a facility as close to  
47 that child as possible. A pilot program for overnight visits with  
48 children is to be established. Visitation is to be encouraged and

1 promoted by: requiring visitation at least six days a week, including  
2 Saturday and Sunday, for at least eight hours a day; not restricting  
3 the number of children allowed to visit; allowing five adult visitors;  
4 and providing for contact visits. Solitary confinement and  
5 shackling of pregnant inmates is to be prohibited. Parenting classes  
6 and trauma informed care is to be provided to inmates and  
7 corrections offices are to be trained in how to interact with victims  
8 of trauma. Former inmates also are to be allowed to mentor  
9 incarcerated parents and assist them with reentry.

10 The bill further requires that an ombudsman be appointed to  
11 monitor inmate allegations of physical abuse including, but not  
12 limited to, sexual abuse and sexual assault; abuse in segregated  
13 housing; abusive strip searches; abuse occurring during prisoner  
14 transport; malnutrition; and failure to provide, free of charge,  
15 requested feminine hygiene products that meet industry standards,  
16 including, but not limited to, multiple sizes of tampons, sanitary  
17 pads and liners, as well as moisturizing soap, vaseline, aspirin,  
18 ibuprofen and any other items deemed appropriate by the  
19 commissioner. Telephone calls and video conferencing are to be  
20 made available at every facility free of charge. Corrections officers  
21 and other employees are to be prohibited from entering restrooms of  
22 inmates of the opposite sex except when necessary. Finally, all  
23 pregnant women and inmates who are primary caretaker parents are  
24 to be allowed to enroll in residential drug abuse programs.

25 A growing segment of the prison population typically is  
26 excluded from the criminal justice reform conversation and does not  
27 get the attention it deserves: primary caretaker parents behind bars.  
28 According to the Sentencing Project, in 2004, 52 percent of inmates  
29 in state prisons and 63 percent in federal prisons were parents of  
30 minor children. Most parents in prison are fathers, but the rate of  
31 female incarceration in America is growing at an alarming rate.  
32 While the number of fathers in prison increased 76 percent between  
33 1991 and 2007, the number of mothers in prison increased by 122  
34 percent during that period.

35 Presumably, the considerable growth in incarcerated parents  
36 represents a considerable growth in incarcerated primary caretaker  
37 parents. This is significant because these parents face unique  
38 challenges. Their incarceration is not their burden to alone share; it  
39 also greatly impacts their family. Many incarcerated primary  
40 caretaker parents also are faced with difficult and competing  
41 choices, like whether to use their limited funds to call home to talk  
42 with their children or to purchase hygiene products in the  
43 commissary.

# ASSEMBLY LAW AND PUBLIC SAFETY COMMITTEE

## STATEMENT TO

### ASSEMBLY, No. 3979

# STATE OF NEW JERSEY

DATED: JUNE 11, 2018

The Assembly Law and Public Safety Committee reports favorably Assembly Bill No. 3979.

As reported by the committee, Assembly Bill No. 3979 establishes the “Dignity for Incarcerated Primary Caretaker Parents Act” to focus on incarcerated parents in State and county correctional facilities who are primary caretakers of children and provide these parents with the protections they deserve.

The bill requires the Commissioner of Corrections and the chief executive officer of each county correctional facility in this State to adopt various policies concerning primary caretakers of children. An inmate who has a child is to be placed in a facility as close to that child as possible. The bill requires a pilot program for overnight visits with children to be established. Visitation is to be encouraged and promoted by: requiring visitation at least six days a week, including Saturday and Sunday, for at least eight hours a day; not restricting the number of children allowed to visit; allowing five adult visitors; and providing for contact visits. Solitary confinement and shackling of pregnant inmates is to be prohibited. Parenting classes and trauma informed care is to be provided to inmates and corrections offices are to be trained in how to interact with victims of trauma. Former inmates also are to be allowed to mentor incarcerated parents and assist them with reentry.

The bill further requires that an ombudsman be appointed to monitor inmate allegations of physical abuse including, but not limited to, sexual abuse and sexual assault; abuse in segregated housing; abusive strip searches; abuse occurring during prisoner transport; malnutrition; and failure to provide, free of charge, requested feminine hygiene products that meet industry standards, including, but not limited to, multiple sizes of tampons, sanitary pads and liners, as well as vaseline, aspirin, ibuprofen and any other items deemed appropriate by the commissioner. Telephone calls and video conferencing are to be made available at every facility free of charge. Corrections officers and other employees are to be prohibited from entering restrooms of inmates of the opposite sex except when necessary. Finally, all pregnant women and inmates who are primary caretaker parents are to be allowed to enroll in residential drug abuse programs.

A growing segment of the prison population typically is excluded from the criminal justice reform conversation and does not get the

attention it deserves: primary caretaker parents behind bars. According to the Sentencing Project, in 2004, 52 percent of inmates in state prisons and 63 percent in federal prisons were parents of minor children. Most parents in prison are fathers, but the rate of female incarceration in America is growing at an alarming rate. While the number of fathers in prison increased 76 percent between 1991 and 2007, the number of mothers in prison increased by 122 percent during that period.

Presumably, the considerable growth in incarcerated parents represents a considerable growth in incarcerated primary caretaker parents. This is significant because these parents face unique challenges. Their incarceration is not their burden to alone share; it also greatly impacts their family. Many incarcerated primary caretaker parents also are faced with difficult and competing choices, like whether to use their limited funds to call home to talk with their children or to purchase hygiene products in the commissary.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR  
ASSEMBLY, No. 3979

**STATE OF NEW JERSEY**

DATED: MARCH 18, 2019

The Assembly Appropriations Committee reports favorably an Assembly Committee Substitute for Assembly Bill No. 3979.

This Assembly committee substitute, entitled the “Dignity for Incarcerated Primary Caretaker Parents Act,” provides certain protections to incarcerated parents in State and county correctional facilities who are primary caretakers of children and clarifies the responsibilities of the Office of the Corrections Ombudsperson.

The committee substitute specifically requires the Commissioner of Corrections and the chief executive officer or warden of each county correctional facility in this State to adopt various policies concerning primary caretakers of children. An inmate in a State correctional facility who has a child is to be placed in a facility as close to that child as possible. Visitation is to be encouraged and promoted by: establishing minimum standards for hours of visitation, including Saturday and Sunday hours; prohibiting restrictions on the number of children allowed to visit; authorizing a minimum number of adult visitors; and authorizing contact visits. Solitary confinement and shackling of pregnant inmates is prohibited. Parenting classes are to be made available to inmates. Trauma informed care is to be provided to inmates and corrections officers are to be trained on how to interact with victims of trauma. Former inmates also are to be allowed to mentor incarcerated parents and assist them with reentry. Feminine hygiene products are to be made available free-of-charge to female inmates in the commissary or medical department. Corrections officers are prohibited from entering restrooms and shower facilities of inmates of the opposite sex unless the commissioner deems it necessary. Finally, all pregnant women and primary caretaker parents are to be allowed to enroll in residential drug abuse and mental health programs.

The committee substitute also specifically sets forth the duties and responsibilities of the Office of the Corrections Ombudsperson. Currently, the office is responsible for establishing and implementing procedures to elicit, receive, process, respond, and resolve complaints from inmates in State correctional facilities, their families, other interested citizens, public officials, and government agencies concerning conditions of confinement. The committee substitute



specifically charges the office with providing information to inmates and their families; promoting public awareness and understanding of the rights of inmates; identifying systemic issues and possible responses; and ensuring compliance with relevant laws and policies. The Corrections Ombudsperson is to head the office and directly report to the Governor.

The duties of the corrections ombudsman under the committee substitute include establishing the priorities of the office, maintaining avenues for receiving complaints, including a toll-free telephone and collect telephone number, a website, and a mailing address; providing information to inmates, family members, department employees, and others regarding inmates' rights; providing technical assistance to support inmate participation in self-advocacy; monitoring compliance with applicable laws, rules and regulations, and policies related to inmates' health, safety, welfare, and rehabilitation; monitoring and participating in legislative and policy developments affecting correctional facilities; establishing a Statewide uniform reporting system to collect and analyze data related to complaints; establishing procedures to receive, investigate, and resolve complaints and to gather stakeholder input into the ombudsperson's activities and priorities; and submit annual reports to the Governor and the Legislature.

The committee substitute further requires the corrections ombudsperson to conduct investigations of inmate complaints; conduct inspections of State correctional facilities; and be provided access to correctional facilities and inmate records. Correspondence and communication with the corrections ombudsperson is confidential and protected as privileged correspondence. A civil action may not be brought against any employee of the office for the good faith performance of the employee's responsibilities.

Finally, the committee substitute establishes an advisory board comprised of gubernatorial and legislative appointees with appropriate expertise to advise the office.

FISCAL IMPACT:

The Office of Legislative Services (OLS) estimates that this bill may result in an indeterminate increase in expenditures incurred by the Department of Corrections (DOC), county correctional facilities, and the Office of the Corrections Ombudsperson in, but not of, the Department of the Treasury.

The bill requires the Department of Corrections and county correctional facilities Statewide to adopt various policies concerning primary caretakers of children. The OLS is unable to estimate the number of inmates in DOC and county correctional facilities who would meet the criteria of a "primary caretaker parent."

The bill expands certain duties and responsibilities of the Office of the Corrections Ombudsperson. Most notably, the bill requires the

Corrections Ombudsperson to conduct regular inspections of all DOC facilities and issue public reports of those inspections. The OLS is unable to determine the extent to which these additional responsibilities will result in an increase in State costs.

# SENATE LAW AND PUBLIC SAFETY COMMITTEE

## STATEMENT TO

### ASSEMBLY COMMITTEE SUBSTITUTE FOR ASSEMBLY, No. 3979

# STATE OF NEW JERSEY

DATED: JUNE 6, 2019

The Senate Law and Public Safety Committee reports favorably Assembly Bill No. 3979 (ACS).

As reported by the committee, this committee substitute, entitled the “Dignity for Incarcerated Primary Caretaker Parents Act,” provides certain protections to incarcerated parents in State and county correctional facilities who are primary caretakers of children and clarifies the responsibilities of the Office of the Corrections Ombudsperson.

The committee substitute specifically requires the Commissioner of Corrections and the chief executive officer or warden of each county correctional facility in this State to adopt various policies concerning primary caretakers of children. An inmate in a State correctional facility who has a child is to be placed in a facility as close to that child as possible. Visitation is to be encouraged and promoted by: establishing minimum standards for hours of visitation, including Saturday and Sunday hours; prohibiting restrictions on the number of children allowed to visit (the substitute does not require overnight visits with children); authorizing a minimum number of adult visitors; and authorizing contact visits. Solitary confinement and shackling of pregnant inmates is prohibited. Parenting classes are to be made available to inmates. Trauma informed care is to be provided to inmates and corrections officers are to be trained on how to interact with victims of trauma. Former inmates also are to be allowed to mentor incarcerated parents and assist them with reentry. Feminine hygiene products are to be made available free-of-charge to female inmates in the commissary or medical department. Corrections officers are prohibited from entering restrooms and shower facilities of inmates of the opposite sex unless the commissioner deems it necessary. Finally, all pregnant women and primary caretaker parents are to be allowed to enroll in residential drug abuse and mental health programs.

The committee substitute also specifically sets forth the duties and responsibilities of the Office of the Corrections Ombudsperson. Currently, the office is responsible for establishing and implementing procedures to elicit, receive, process, respond, and resolve complaints from inmates in State correctional facilities, their families, other

interested citizens, public officials, and government agencies concerning conditions of confinement. The committee substitute specifically charges the office with providing information to inmates and their families; promoting public awareness and understanding of the rights of inmates; identifying systemic issues and possible responses; and ensuring compliance with relevant laws and policies. The Corrections Ombudsperson is to head the office and directly report to the Governor.

The duties of the corrections ombudsman under the committee substitute include establishing the priorities of the office, maintaining avenues for receiving complaints, including a toll-free telephone and collect telephone number, a website, and a mailing address; providing information to inmates, family members, department employees, and others regarding inmates' rights; providing technical assistance to support inmate participation in self-advocacy; monitoring compliance with applicable laws, rules and regulations, and policies related to inmates' health, safety, welfare, and rehabilitation; monitoring and participating in legislative and policy developments affecting correctional facilities; establishing a Statewide uniform reporting system to collect and analyze data related to complaints; establishing procedures to receive, investigate, and resolve complaints and to gather stakeholder input into the ombudsperson's activities and priorities; and submit annual reports to the Governor and the Legislature.

The committee substitute further requires the corrections ombudsperson to conduct investigations of inmate complaints; conduct inspections of State correctional facilities; and be provided access to correctional facilities and inmate records. Correspondence and communication with the corrections ombudsperson is confidential and protected as privileged correspondence. A civil action may not be brought against any employee of the office for the good faith performance of the employee's responsibilities.

Finally, the committee substitute establishes an advisory board comprised of gubernatorial and legislative appointees with appropriate expertise to advise the office.

As reported by the committee, Assembly Bill No. 3979 (ACS) is identical to the Senate Committee Substitute for Senate Bill No. 2540, which also was reported by the committee on this same date.

# SENATE BUDGET AND APPROPRIATIONS COMMITTEE

## STATEMENT TO

### ASSEMBLY COMMITTEE SUBSTITUTE FOR **ASSEMBLY, No. 3979**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: DECEMBER 5, 2019

The Senate Budget and Appropriations Committee reports favorably an Assembly Committee Substitute for Assembly Bill No. 3979, with committee amendments.

As amended and reported by the committee, the Assembly committee substitute for Assembly Bill No. 2540, entitled the “Dignity for Incarcerated Primary Caretaker Parents Act,” provides certain protections to incarcerated parents in State and county correctional facilities who are primary caretakers of children. The substitute also clarifies the responsibilities of the Office of the Corrections Ombudsperson.

The amended committee substitute specifically requires the Commissioner of Corrections and the chief executive officer or warden of each county correctional facility in this State to adopt various policies concerning primary caretakers of children. An inmate in a State correctional facility who has a child is to be placed in a facility as close to that child as possible. Visitation is to be encouraged and promoted by: establishing minimum standards for hours of visitation, including Saturday and Sunday hours; prohibiting restrictions on the number of children allowed to visit (the substitute does not require overnight visits with children); authorizing a minimum number of adult visitors; and authorizing contact visits. Isolated confinement and shackling of pregnant inmates is prohibited. Parenting classes are to be made available to inmates. Trauma informed care is to be provided to inmates and corrections officers are to be trained on how to interact with victims of trauma. Former inmates also are to be allowed to mentor incarcerated parents and assist them with reentry. Feminine hygiene products are to be made available free-of-charge to female inmates in the commissary or medical department. Corrections officers are prohibited from entering restrooms and shower facilities of inmates of the opposite sex unless the commissioner deems it necessary. Finally, all pregnant women and primary caretaker parents are to be allowed to enroll in residential drug abuse and mental health programs.

The amended committee substitute also specifically sets forth the duties and responsibilities of the Office of the Corrections Ombudsperson. Currently, the office is responsible for establishing and implementing procedures to elicit, receive, process, respond, and resolve complaints from inmates in State correctional facilities, their families, other interested citizens, public officials, and government agencies concerning conditions of confinement. The amended committee substitute specifically charges the office with providing information to inmates and their families; promoting public awareness and understanding of the rights of inmates; identifying systemic issues and possible responses; and ensuring compliance with relevant laws and policies. The Corrections Ombudsperson is to head the office and directly report to the Governor.

The duties of the corrections ombudsman under the amended committee substitute include establishing the priorities of the office, maintaining avenues for receiving complaints, including a toll-free telephone and collect telephone number, a website, and a mailing address; providing information to inmates, family members, department employees, and others regarding inmates' rights; providing technical assistance to support inmate participation in self-advocacy; monitoring compliance with applicable laws, rules and regulations, and policies related to inmates' health, safety, welfare, and rehabilitation; monitoring and participating in legislative and policy developments affecting correctional facilities; establishing a Statewide uniform reporting system to collect and analyze data related to complaints; establishing procedures to receive, investigate, and resolve complaints and to gather stakeholder input into the ombudsperson's activities and priorities; and submit annual reports to the Governor and the Legislature.

The amended committee substitute further requires the corrections ombudsperson to conduct investigations of inmate complaints; conduct inspections of State correctional facilities; and be provided access to correctional facilities and inmate records. Correspondence and communication with the corrections ombudsperson is confidential and protected as privileged correspondence. A civil action may not be brought against any employee of the office for the good faith performance of the employee's responsibilities.

Finally, the amended committee substitute establishes an advisory board comprised of gubernatorial and legislative appointees with appropriate expertise to advise the office.

As amended and reported by the committee, this Assembly Committee Substitute for Assembly Bill No. 3979 is identical to the Senate Committee Substitute for Senate Bill No. 2540, which also was amended and reported by the committee on this same date.

COMMITTEE AMENDMENTS:

The committee amended the committee substitute bill to:

(1) reduce the number of required hours per visit under the visitation program established in the bill from four to three;

(2) in regard to the ombudsperson conducting inspections of correctional facilities and accessing these facilities and inmate records, exempt from review information related to any ongoing criminal investigations, Prison Rape Elimination Act (PREA) investigations, or other information, records or investigations deemed confidential by the Special Investigations Division of the department, as well as the Special Investigations Division evidence rooms and certain video and tape recordings; and

(3) clarify the scope of the ombudsperson's rights and responsibilities under the substitute in regard to publicizing inspection reports and accessing facilities and inmate records to investigate a complaint.

FISCAL IMPACT:

The Office of Legislative Services (OLS) estimates that this bill may result in an indeterminate increase in expenditures incurred by the Department of Corrections (DOC), county correctional facilities, and the Office of the Corrections Ombudsperson in, but not of, the Department of the Treasury.

The bill requires the Department of Corrections and county correctional facilities Statewide to adopt various policies concerning primary caretakers of children. The OLS is unable to estimate the number of inmates in DOC and county correctional facilities who would meet the criteria of a "primary caretaker parent."

The bill expands certain duties and responsibilities of the Office of the Corrections Ombudsperson. Most notably, the bill requires the Corrections Ombudsperson to conduct regular inspections of all DOC facilities and issue public reports of those inspections, with some confidential information being exempt from review and reporting. The OLS is unable to determine the extent to which these additional responsibilities will result in an increase in State costs.

**LEGISLATIVE FISCAL ESTIMATE**  
**ASSEMBLY COMMITTEE SUBSTITUTE FOR**  
**ASSEMBLY, No. 3979**  
**STATE OF NEW JERSEY**  
**218th LEGISLATURE**

DATED: MARCH 26, 2019

**SUMMARY**

**Synopsis:** "Dignity for Incarcerated Primary Caretaker Parents Act."

**Type of Impact:** Indeterminate cost increases to State and county governments.

**Agencies Affected:** Department of Corrections; County Correction Facilities; Office of the Corrections Ombudsman in the Department of the Treasury.

**Office of Legislative Services Estimate**

<b>Fiscal Impact</b>	<u><b>Year 1</b></u>	<u><b>Year 2</b></u>	<u><b>Year 3</b></u>
<b>State and Local Annual Cost</b>		Indeterminate	

- The Office of Legislative Services (OLS) estimates that this legislation may result in an indeterminate expenditure increase as a result of the requirements incurred by the Department of Corrections (DOC), county correctional facilities, and the Office of the Corrections Ombudsman in the Department of the Treasury.
- The legislation requires the Department of Corrections and county correctional facilities Statewide to adopt various policies concerning primary caretakers of children; the OLS is unable to estimate the number of inmates in DOC and county correctional facilities who would meet the criteria of a “primary caretaker parent.”
- The legislation expands certain duties and responsibilities of the Office of the Corrections Ombudsperson in, but not of, the Department of Treasury. The OLS is unable to determine to what extent the legislation would expand the office’s current duties and responsibilities, but the most notable expansion is the requirement to conduct regular inspections of all department facilities and issue public reports of all inspections.
- The legislation establishes a nine person advisory board to advise the Office of the Corrections Ombudsman.



## **BILL DESCRIPTION**

This legislation establishes the “Dignity for Incarcerated Primary Caretaker Parents Act” which requires the Department of Corrections and county correctional facilities Statewide to adopt various policies concerning primary caretakers of children.

Under the legislation, State and county correctional facilities are required to:

- Place an inmate, who is being assigned to a State facility, who has a child in a correctional facility as close as possible to that child’s place of residence,
- Establish certain policies that encourage and provide visitation, particularly for inmates who are primary caretaker parents;
- Prohibit solitary confinement and shackling of pregnant inmates;
- Provide parenting classes to inmates who are primary caretakers;
- Provide trauma informed care to inmates who are primary caretakers and train corrections officers on how to interact with victims of trauma;
- Permit certain former inmates to mentor incarcerated parents and assist them with reentry;
- Provide, free of charge, feminine hygiene products that meet industry standards, including, but not limited to, multiple sizes of tampons, sanitary pads, and liners, as well as Vaseline, aspirin, ibuprofen and any other items deemed appropriate by the commissioner;
- Prohibit corrections officers and other employees of the opposite sex from entering restrooms of inmates except when necessary; and
- Allow pregnant women and inmates who are primary caretaker parents to enroll in residential drug abuse programs.

The legislation expands certain duties and responsibilities of the Office of the Corrections Ombudsperson, including conducting investigations of inmate complaints and conducting inspections of State correctional facilities. The office is required to submit annual reports to the Governor and the Legislature.

Finally, the legislation establishes an advisory board comprised of gubernatorial and legislative appointees with appropriate expertise to advise the office.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

None received.

### ***OFFICE OF LEGISLATIVE SERVICES***

The OLS estimates that this legislation may result in an indeterminate expenditure increase as a result of the requirements incurred by the DOC, county correctional facilities, and the Office of the Corrections Ombudsman in the Department of the Treasury.

The OLS is unable to estimate the number of DOC and county correctional inmates who would meet the criteria of a “primary caretaker parent.” DOC reported that as of January 2, 2019 there were 19,212 DOC inmates. The Sentencing Project, a group that supports sentencing reforms and alternatives to incarceration, estimated the county correctional facility population to be 15,235 in 2016.

**Expenditures:** The legislation requires the placement of an inmate, who has a child, in a State correctional facility as close as possible to that child's place of residence. The OLS estimates this requirement may result in an unknown, potentially large number of inmates being placed in certain State correctional facilities, versus others, than would otherwise occur. Further, the requirement may compel the State to redesign facilities to hold females in what are at present all-male facilities so they are closer to their children.

Expanded visitation programs for all inmates may result in facility costs and staffing costs, including overtime, especially in high-security facilities.

The OLS is uncertain about the educational offerings at the DOC and county correctional facilities; however notes, if parenting classes, trauma informed care classes, and residential drug abuse programs for primary caretaker parents are not currently offered, the cost impact will be determined by the number of inmates entitled to take the classes. Further, if DOC and county correctional officers are required to complete trauma informed training, the OLS determines this training could be incorporated into standard training curriculum required. Although OLS does not have access to the number of county corrections officers Statewide, according to the 2016 New Jersey Uniform Crime Report, the DOC employed 5,835 full time corrections officers.

The legislation requires standard feminine hygiene products, including but not limited to, tampons and sanitary pads, to be provided at no charge at the request of female inmates. Although the number of female inmates at county correctional facilities is unavailable, as of January 2, 2019, there were 609 female inmates at Edna Mahan. The cost for sanitary supplies may range between \$50,000 and \$100,000 annually.

The legislation's restriction on corrections officers and department employees from entering restrooms of inmates of the opposite sex may correlate to reassignments of certain officers. Again, OLS does not have county correction employee data, but according to the 2016 New Jersey Uniform Crime Report, the State employed an estimated 5,835 officers, 4,808 were male and 1,027 were female. November 2018 figures provided directly from the DOC indicated that of the 264 correctional officers employed at Edna Mahan, only 110 were females.

Further, the legislation expands the duties and responsibilities of the Office of the Corrections Ombudsperson in, but not of, the Department of Treasury. The OLS is unable to determine to what extent the legislation would expand the office's duties and responsibilities from the office's current duties and responsibilities. The office's budget is about \$770,000, excluding fringe benefits, with a staff of eight members.

Currently, the office is responsible for establishing and implementing procedures to elicit, receive, process, respond, and resolve complaints from inmates in State correctional facilities, their families, other interested citizens, public officials, and government agencies concerning conditions of confinement. The legislation specifically charges the office with providing information to inmates and their families; promoting public awareness and understanding of the rights of inmates; identifying systemic issues and possible responses; and ensuring compliance with relevant laws and policies.

The most notable expansion of the legislation is the requirement to conduct investigations of inmate complaints; conduct regular inspections of all department facilities; issue public reports of all inspections and to be provided access to correctional facilities and inmate records. Although the legislation doesn't detail the purpose of the required inspections, the OLS determined that staff may need to expand to perform this requirement by a minimum of two members. One full-time employee (FTE) is estimated to cost between \$75,000 and \$100,000 annually.

Lastly, the legislation establishes a nine person advisory board to advise the Office of the Corrections Ombudsman. The legislation is silent on monetary support for the board.

FE to ACS for A3979

4

*Section: Law and Public Safety*

*Analyst: Kristin Brunner Santos  
Senior Fiscal 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 COMMITTEE SUBSTITUTE FOR

**ASSEMBLY, No. 3979**

**STATE OF NEW JERSEY**

**218th LEGISLATURE**

DATED: DECEMBER 19, 2019

## SUMMARY

- Synopsis:** "Dignity for Incarcerated Primary Caretaker Parents Act."
- Type of Impact:** Indeterminate cost increases to State and county governments.
- Agencies Affected:** Department of Corrections; County Correction Facilities; Office of the Corrections Ombudsman in the Department of the Treasury.

### Office of Legislative Services Estimate

<b>Fiscal Impact</b>	<b><u>Year 1</u></b>	<b><u>Year 2</u></b>	<b><u>Year 3</u></b>
<b>State and Local Annual Cost Increase</b>		Indeterminate	

- The Office of Legislative Services (OLS) estimates that this legislation may result in an indeterminate expenditure increase as a result of the requirements incurred by the Department of Corrections (DOC), county correctional facilities, and the Office of the Corrections Ombudsman in, but not of, the Department of the Treasury.
- The legislation requires the Department of Corrections and county correctional facilities Statewide to adopt various policies concerning primary caretakers of children; the OLS is unable to estimate the number of inmates in DOC and county correctional facilities who would meet the criteria of a "primary caretaker parent."
- The legislation expands certain duties and responsibilities of the Office of the Corrections Ombudsperson. The OLS is unable to determine to what extent the legislation would expand the office's current duties and responsibilities, but the most notable expansion is the requirement to conduct regular inspections of all department facilities and issue public reports of all inspections.
- The legislation establishes a nine person advisory board to advise the Office of the Corrections Ombudsman.

## **BILL DESCRIPTION**

This legislation establishes the “Dignity for Incarcerated Primary Caretaker Parents Act,” which requires the Department of Corrections and county correctional facilities Statewide to adopt various policies concerning primary caretakers of children.

Under the legislation, State and county correctional facilities are required to:

- Place an inmate, who is being assigned to a State facility, who has a child in a correctional facility as close as possible to that child’s place of residence;
- Establish certain policies that encourage and provide visitation, particularly for inmates who are primary caretaker parents;
- Prohibit solitary confinement and shackling of pregnant inmates;
- Provide parenting classes to inmates who are primary caretakers;
- Provide trauma informed care to inmates who are primary caretakers and train corrections officers on how to interact with victims of trauma;
- Permit certain former inmates to mentor incarcerated parents and assist them with reentry;
- Provide, free of charge, feminine hygiene products that meet industry standards, including, but not limited to, multiple sizes of tampons, sanitary pads, and liners, as well as Vaseline, aspirin, ibuprofen and any other items deemed appropriate by the commissioner;
- Prohibit corrections officers and other employees of the opposite sex from entering restrooms of inmates except when necessary; and
- Allow pregnant women and inmates who are primary caretaker parents to enroll in residential drug abuse programs.

The legislation expands certain duties and responsibilities of the Office of the Corrections Ombudsperson, including ensuring that certain investigations of inmate complaints have been conducted and conducting inspections of State correctional facilities. The office is required to submit annual reports to the Governor and the Legislature.

Finally, the legislation establishes an advisory board comprised of gubernatorial and legislative appointees with appropriate expertise to advise the office.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

None received.

### ***OFFICE OF LEGISLATIVE SERVICES***

The OLS estimates that this legislation may result in an indeterminate expenditure increase as a result of the requirements incurred by the DOC, county correctional facilities, and the Office of the Corrections Ombudsman in, but not of, the Department of the Treasury.

The OLS is unable to estimate the number of DOC and county correctional inmates who would meet the criteria of a “primary caretaker parent.” DOC reported that as of January 2, 2019 there were 19,212 DOC inmates. The Sentencing Project, a group that supports sentencing reforms and alternatives to incarceration, estimated the county correctional facility population to be 15,235 in 2016.

**Expenditures:** The legislation requires the placement of an inmate, who has a child, in a State correctional facility as close as possible to that child’s place of residence. The OLS estimates this

requirement may result in an unknown, potentially large number of inmates being placed in certain State correctional facilities, versus others, than would otherwise occur. Further, the requirement may compel the State to redesign facilities to hold females in what are at present all-male facilities so they are closer to their children.

Expanded visitation programs for all inmates may result in facility costs and staffing costs, including overtime, especially in high-security facilities.

The OLS is uncertain about the educational offerings at the DOC and county correctional facilities; however notes, if parenting classes, trauma informed care classes, and residential drug abuse programs for primary caretaker parents are not currently offered, the cost impact will be determined by the number of inmates entitled to take the classes. Further, if DOC and county correctional officers are required to complete trauma informed training, the OLS determines this training could be incorporated into standard training curriculum required. Although OLS does not have access to the number of county corrections officers Statewide, according to the 2016 New Jersey Uniform Crime Report, the DOC employed 5,835 full time corrections officers.

The legislation requires standard feminine hygiene products, including but not limited to, tampons and sanitary pads, to be provided at no charge at the request of female inmates. Although the number of female inmates at county correctional facilities is unavailable, as of January 2, 2019, there were 609 female inmates at Edna Mahan. The cost for sanitary supplies may range between \$50,000 and \$100,000 annually.

The legislation's restriction on corrections officers and department employees from entering restrooms of inmates of the opposite sex may correlate to reassignments of certain officers. Again, OLS does not have county correction employee data, but according to the 2016 New Jersey Uniform Crime Report, the State employed an estimated 5,835 officers, 4,808 were male and 1,027 were female. November 2018 figures provided directly from the DOC indicated that of the 264 correctional officers employed at Edna Mahan, only 110 were females.

Further, the legislation expands the duties and responsibilities of the Office of the Corrections Ombudsperson. The OLS is unable to determine to what extent the legislation would expand the office's duties and responsibilities from the office's current duties and responsibilities. The office's budget is about \$770,000, excluding fringe benefits, with a staff of eight members.

Currently, the office is responsible for establishing and implementing procedures to elicit, receive, process, respond, and resolve complaints from inmates in State correctional facilities, their families, other interested citizens, public officials, and government agencies concerning conditions of confinement. The legislation specifically charges the office with providing information to inmates and their families; promoting public awareness and understanding of the rights of inmates; identifying systemic issues and possible responses; and ensuring compliance with relevant laws and policies.

The most notable expansion of the legislation is the requirement to ensure that certain investigations of inmate complaints have been conducted; conduct regular inspections of all department facilities; issue public reports of all inspections and to be provided access to correctional facilities and inmate records. Although the legislation does not detail the purpose of the required inspections, the OLS determined that staff may need to expand to perform this requirement by a minimum of two members. One full-time employee is estimated to cost between \$75,000 and \$100,000 annually.

Lastly, the legislation establishes a nine person advisory board to advise the Office of the Corrections Ombudsman. The legislation is silent on monetary support for the board.

*Section: Law and Public Safety*

*Analyst: Kristin Brunner Santos  
Senior Fiscal 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. 2540

## STATE OF NEW JERSEY 218th LEGISLATURE

INTRODUCED MAY 14, 2018

**Sponsored by:**

**Senator LINDA R. GREENSTEIN**

**District 14 (Mercer and Middlesex)**

**Senator NILSA CRUZ-PEREZ**

**District 5 (Camden and Gloucester)**

**Senator M. TERESA RUIZ**

**District 29 (Essex)**

**Co-Sponsored by:**

**Senator Stack**

**SYNOPSIS**

“Dignity for Incarcerated Primary Caretaker Parents Act.”

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 7/27/2018)**



1 AN ACT concerning incarcerated primary caretaker parents and  
2 supplementing Title 30 of the Revised Statutes.

3

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

6

7 1. This act shall be known and may be cited as the “Dignity for  
8 Incarcerated Primary Caretaker Parents Act.”

9

10 2. The Legislature finds and declares:

11 a. A growing segment of the prison population typically is  
12 excluded from the criminal justice reform conversation and does not  
13 get the attention it deserves: primary caretaker parents behind bars.  
14 According to the Sentencing Project, in 2004, 52 percent of inmates  
15 in state prisons and 63 percent in federal prisons were parents of  
16 minor children. Most parents in prison are fathers, but the rate of  
17 female incarceration in America is growing at an alarming rate.  
18 While the number of fathers in prison increased 76 percent between  
19 1991 and 2007, the number of mothers in prison increased by 122  
20 percent during that period.

21 b. Presumably, the considerable growth in incarcerated parents  
22 represents a considerable growth in incarcerated primary caretaker  
23 parents. This is significant because these parents face unique  
24 challenges. Their incarceration is not their burden to alone share; it  
25 also greatly impacts their family. Many incarcerated primary  
26 caretaker parents also are faced with difficult and competing  
27 choices, like whether to use their limited funds to call home to talk  
28 with their children or to purchase hygiene products in the  
29 commissary.

30 c. It is time for this State to focus on its incarcerated primary  
31 caretaker parents and provide them with the protections they  
32 deserve.

33

34 3. The Commissioner of Corrections shall:

35 a. place an inmate who has a child in a correctional facility as  
36 close as possible to that child’s place of residence;

37 b. establish policies that encourage and promote visitation,  
38 particularly for inmates who are primary caretaker parents,  
39 including, but not limited to:

40 (1) requiring visitation at least six days per week, including  
41 Saturday and Sunday, for at least eight hours per day;

42 (2) prohibiting restrictions on the number of children allowed to  
43 visit an inmate;

44 (3) creating an overnight visit pilot program for inmates and  
45 their children;

46 (4) authorizing up to five adult visitors; and

47 (5) authorizing contact visits;

48 c. prohibit the solitary confinement of pregnant women;

- 1 d. prohibit the shackling of pregnant women;
  - 2 e. provide parenting classes to inmates who are primary  
3 caretaker parents;
  - 4 f. provide trauma informed care to inmates who are primary  
5 caretaker parents and train correctional police officers on how to  
6 interact with inmates who are victims of trauma;
  - 7 g. allow former inmates who have returned to society to mentor  
8 current inmates who are incarcerated primary caretaker parents and  
9 assist these inmates with reentry efforts;
  - 10 h. require feminine hygiene products that meet industry  
11 standards, including but not limited to, multiple sizes of tampons,  
12 sanitary pads, and liners; vaseline, aspirin, ibuprofen, and any other  
13 item deemed appropriate by the commissioner, be provided at the  
14 request of and free of charge to inmates;
  - 15 i. appoint an ombudsman to monitor allegations by inmates of  
16 the following:
    - 17 (1) physical abuse, including but not limited to sexual abuse and  
18 sexual assault;
    - 19 (2) abuse in segregated housing;
    - 20 (3) abuse in strip searches;
    - 21 (4) abuse in prisoner transportation;
    - 22 (5) malnutrition; and
    - 23 (6) failure to make available the feminine hygiene products  
24 required in subsection h. of this section;
  - 25 j. prohibit charging inmates for telephone calls and make  
26 video conferencing available at every facility free of charge;
  - 27 k. restrict corrections officers and other department employees  
28 from entering restrooms of inmates of the opposite sex except when  
29 deemed necessary by the commissioner; and
  - 30 l. allow all pregnant women and inmates who are primary  
31 caretaker parents to enroll in residential drug abuse programs.  
32
- 33 4. The chief executive officer of each county correctional  
34 facility shall:
- 35 a. place an inmate who has a child in a correctional facility as  
36 close as possible to that child's place of residence;
  - 37 b. establish policies that encourage and promote visitation,  
38 particularly for inmates who are primary caretaker parents,  
39 including, but not limited to:
    - 40 (1) requiring visitation at least six days per week, including  
41 Saturday and Sunday, for at least eight hours per day;
    - 42 (2) prohibiting restrictions on the number of children allowed to  
43 visit an inmate;
    - 44 (3) creating an overnight visit pilot program for inmates and  
45 their children;
    - 46 (4) authorizing up to five adult visitors; and
    - 47 (5) authorizing contact visits;
  - 48 c. prohibit the solitary confinement of pregnant women;

- 1 d. prohibit the shackling of pregnant women;
- 2 e. provide parenting classes to inmates who are primary  
3 caretaker parents;
- 4 f. provide trauma informed care to inmates who are primary  
5 caretaker parents and train correctional police officers on how to  
6 interact with inmates who are victims of trauma;
- 7 g. allow former inmates who have returned to society to mentor  
8 current inmates who are incarcerated primary caretaker parents and  
9 assist these inmates with reentry efforts;
- 10 h. require feminine hygiene products that meet industry  
11 standards, including but not limited to, multiple sizes of tampons,  
12 sanitary pads, and liners; vaseline, aspirin, ibuprofen, and any other  
13 item deemed appropriate by the commissioner, be provided at the  
14 request of and free of charge to inmates;
- 15 i. appoint an ombudsman to monitor allegations by inmates of  
16 the following:
- 17 (1) physical abuse, including but not limited to sexual abuse and  
18 sexual assault;
- 19 (2) abuse in segregated housing;
- 20 (3) abuse in strip searches;
- 21 (4) abuse in prisoner transportation;
- 22 (5) malnutrition; and
- 23 (6) failure to make available the feminine hygiene products  
24 required in subsection h. of this section;
- 25 j. prohibit charging inmates for telephone calls and make  
26 video conferencing available at every facility free of charge;
- 27 k. restrict corrections officers and other department employees  
28 from entering restrooms of inmates of the opposite sex except when  
29 deemed necessary by the commissioner; and
- 30 l. allow all pregnant women and inmates who are primary  
31 caretaker parents to enroll in residential drug abuse programs.

32

33 5. This act shall take effect on the first day of the seventh  
34 month next following enactment.

35

36

37 STATEMENT

38

39 This bill establishes the “Dignity for Incarcerated Primary  
40 Caretaker Parents Act” to focus on incarcerated parents in State and  
41 county correctional facilities who are primary caretakers of children  
42 and provide these parents with the protections they deserve.

43 The bill requires the Commissioner of Corrections and the chief  
44 executive officer of each county correctional facility in this State to  
45 adopt various policies concerning primary caretakers of children.  
46 An inmate who has a child is to be placed in a facility as close to  
47 that child as possible. A pilot program for overnight visits with  
48 children is to be established. Visitation is to be encouraged and

1 promoted by: requiring visitation at least six days a week, including  
2 Saturday and Sunday, for at least eight hours a day; not restricting  
3 the number of children allowed to visit; allowing five adult visitors;  
4 and providing for contact visits. Solitary confinement and  
5 shackling of pregnant inmates is to be prohibited. Parenting classes  
6 and trauma informed care is to be provided to inmates and  
7 corrections offices are to be trained in how to interact with victims  
8 of trauma. Former inmates also are to be allowed to mentor  
9 incarcerated parents and assist them with reentry.

10 The bill further requires that an ombudsman be appointed to  
11 monitor inmate allegations of physical abuse including, but not  
12 limited to, sexual abuse and sexual assault; abuse in segregated  
13 housing; abusive strip searches; abuse occurring during prisoner  
14 transport; malnutrition; and failure to provide, free of charge,  
15 requested feminine hygiene products that meet industry standards,  
16 including, but not limited to, multiple sizes of tampons, sanitary  
17 pads and liners, as well as moisturizing soap, vaseline, aspirin,  
18 ibuprofen and any other items deemed appropriate by the  
19 commissioner. Telephone calls and video conferencing are to be  
20 made available at every facility free of charge. Corrections officers  
21 and other employees are to be prohibited from entering restrooms of  
22 inmates of the opposite sex except when necessary. Finally, all  
23 pregnant women and inmates who are primary caretaker parents are  
24 to be allowed to enroll in residential drug abuse programs.

25 A growing segment of the prison population typically is  
26 excluded from the criminal justice reform conversation and does not  
27 get the attention it deserves: primary caretaker parents behind bars.  
28 According to the Sentencing Project, in 2004, 52 percent of inmates  
29 in state prisons and 63 percent in federal prisons were parents of  
30 minor children. Most parents in prison are fathers, but the rate of  
31 female incarceration in America is growing at an alarming rate.  
32 While the number of fathers in prison increased 76 percent between  
33 1991 and 2007, the number of mothers in prison increased by 122  
34 percent during that period.

35 Presumably, the considerable growth in incarcerated parents  
36 represents a considerable growth in incarcerated primary caretaker  
37 parents. This is significant because these parents face unique  
38 challenges. Their incarceration is not their burden to alone share; it  
39 also greatly impacts their family. Many incarcerated primary  
40 caretaker parents also are faced with difficult and competing  
41 choices, like whether to use their limited funds to call home to talk  
42 with their children or to purchase hygiene products in the  
43 commissary.

# SENATE LAW AND PUBLIC SAFETY COMMITTEE

## STATEMENT TO

### SENATE COMMITTEE SUBSTITUTE FOR **SENATE, No. 2540**

# **STATE OF NEW JERSEY**

DATED: JUNE 6, 2019

The Senate Law and Public Safety Committee reports favorably a Senate Committee Substitute for Senate Bill No. 2540.

This Senate committee substitute, entitled the “Dignity for Incarcerated Primary Caretaker Parents Act,” provides certain protections to incarcerated parents in State and county correctional facilities who are primary caretakers of children and clarifies the responsibilities of the Office of the Corrections Ombudsperson.

The committee substitute specifically requires the Commissioner of Corrections and the chief executive officer or warden of each county correctional facility in this State to adopt various policies concerning primary caretakers of children. An inmate in a State correctional facility who has a child is to be placed in a facility as close to that child as possible. Visitation is to be encouraged and promoted by: establishing minimum standards for hours of visitation, including Saturday and Sunday hours; prohibiting restrictions on the number of children allowed to visit (the substitute does not require overnight visits with children); authorizing a minimum number of adult visitors; and authorizing contact visits. Solitary confinement and shackling of pregnant inmates is prohibited. Parenting classes are to be made available to inmates. Trauma informed care is to be provided to inmates and corrections officers are to be trained on how to interact with victims of trauma. Former inmates also are to be allowed to mentor incarcerated parents and assist them with reentry. Feminine hygiene products are to be made available free-of-charge to female inmates in the commissary or medical department. Corrections officers are prohibited from entering restrooms and shower facilities of inmates of the opposite sex unless the commissioner deems it necessary. Finally, all pregnant women and primary caretaker parents are to be allowed to enroll in residential drug abuse and mental health programs.

The committee substitute also specifically sets forth the duties and responsibilities of the Office of the Corrections Ombudsperson. Currently, the office is responsible for establishing and implementing procedures to elicit, receive, process, respond, and resolve complaints from inmates in State correctional facilities, their families, other interested citizens, public officials, and government agencies

concerning conditions of confinement. The committee substitute specifically charges the office with providing information to inmates and their families; promoting public awareness and understanding of the rights of inmates; identifying systemic issues and possible responses; and ensuring compliance with relevant laws and policies. The Corrections Ombudsperson is to head the office and directly report to the Governor.

The duties of the corrections ombudsman under the committee substitute include establishing the priorities of the office, maintaining avenues for receiving complaints, including a toll-free telephone and collect telephone number, a website, and a mailing address; providing information to inmates, family members, department employees, and others regarding inmates' rights; providing technical assistance to support inmate participation in self-advocacy; monitoring compliance with applicable laws, rules and regulations, and policies related to inmates' health, safety, welfare, and rehabilitation; monitoring and participating in legislative and policy developments affecting correctional facilities; establishing a Statewide uniform reporting system to collect and analyze data related to complaints; establishing procedures to receive, investigate, and resolve complaints and to gather stakeholder input into the ombudsperson's activities and priorities; and submit annual reports to the Governor and the Legislature.

The committee substitute further requires the corrections ombudsperson to conduct investigations of inmate complaints; conduct inspections of State correctional facilities; and be provided access to correctional facilities and inmate records. Correspondence and communication with the corrections ombudsperson is confidential and protected as privileged correspondence. A civil action may not be brought against any employee of the office for the good faith performance of the employee's responsibilities.

Finally, the committee substitute establishes an advisory board comprised of gubernatorial and legislative appointees with appropriate expertise to advise the office.

As reported by the committee, this Senate Committee Substitute for Senate Bill No. 2540 is identical to Assembly Bill No. 3979 (ACS), which also was reported by the committee on this same date.

# SENATE BUDGET AND APPROPRIATIONS COMMITTEE

## STATEMENT TO

### SENATE COMMITTEE SUBSTITUTE FOR **SENATE, No. 2540**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: DECEMBER 5, 2019

The Senate Budget and Appropriations Committee reports favorably a Senate Committee Substitute for Senate Bill No. 2540, with committee amendments.

As amended and reported by the committee, the Senate committee substitute for Senate Bill No. 2540, entitled the “Dignity for Incarcerated Primary Caretaker Parents Act,” provides certain protections to incarcerated parents in State and county correctional facilities who are primary caretakers of children. The substitute also clarifies the responsibilities of the Office of the Corrections Ombudsperson.

The amended committee substitute specifically requires the Commissioner of Corrections and the chief executive officer or warden of each county correctional facility in this State to adopt various policies concerning primary caretakers of children. An inmate in a State correctional facility who has a child is to be placed in a facility as close to that child as possible. Visitation is to be encouraged and promoted by: establishing minimum standards for hours of visitation, including Saturday and Sunday hours; prohibiting restrictions on the number of children allowed to visit (the substitute does not require overnight visits with children); authorizing a minimum number of adult visitors; and authorizing contact visits. Isolated confinement and shackling of pregnant inmates is prohibited. Parenting classes are to be made available to inmates. Trauma informed care is to be provided to inmates and corrections officers are to be trained on how to interact with victims of trauma. Former inmates also are to be allowed to mentor incarcerated parents and assist them with reentry. Feminine hygiene products are to be made available free-of-charge to female inmates in the commissary or medical department. Corrections officers are prohibited from entering restrooms and shower facilities of inmates of the opposite sex unless the commissioner deems it necessary. Finally, all pregnant women and primary caretaker parents are to be allowed to enroll in residential drug abuse and mental health programs.

The amended committee substitute also specifically sets forth the duties and responsibilities of the Office of the Corrections Ombudsperson. Currently, the office is responsible for establishing and implementing procedures to elicit, receive, process, respond, and resolve complaints from inmates in State correctional facilities, their families, other interested citizens, public officials, and government agencies concerning conditions of confinement. The amended committee substitute specifically charges the office with providing information to inmates and their families; promoting public awareness and understanding of the rights of inmates; identifying systemic issues and possible responses; and ensuring compliance with relevant laws and policies. The Corrections Ombudsperson is to head the office and directly report to the Governor.

The duties of the corrections ombudsman under the amended committee substitute include establishing the priorities of the office, maintaining avenues for receiving complaints, including a toll-free telephone and collect telephone number, a website, and a mailing address; providing information to inmates, family members, department employees, and others regarding inmates' rights; providing technical assistance to support inmate participation in self-advocacy; monitoring compliance with applicable laws, rules and regulations, and policies related to inmates' health, safety, welfare, and rehabilitation; monitoring and participating in legislative and policy developments affecting correctional facilities; establishing a Statewide uniform reporting system to collect and analyze data related to complaints; establishing procedures to receive, investigate, and resolve complaints and to gather stakeholder input into the ombudsperson's activities and priorities; and submit annual reports to the Governor and the Legislature.

The amended committee substitute further requires the corrections ombudsperson to conduct investigations of inmate complaints; conduct inspections of State correctional facilities; and be provided access to correctional facilities and inmate records. Correspondence and communication with the corrections ombudsperson is confidential and protected as privileged correspondence. A civil action may not be brought against any employee of the office for the good faith performance of the employee's responsibilities.

Finally, the amended committee substitute establishes an advisory board comprised of gubernatorial and legislative appointees with appropriate expertise to advise the office.

As amended and reported by the committee, this Senate Committee Substitute for Senate Bill No. 2540 is identical to the Assembly Committee Substitute for Assembly Bill No. 3979, which also was amended and reported by the committee on this same date.

#### COMMITTEE AMENDMENTS:

The committee amended the committee substitute bill to:



(1) reduce the number of required hours per visit under the visitation program established in the bill from four to three;

(2) in regard to the ombudsperson conducting inspections of correctional facilities and accessing these facilities and inmate records, exempt from review information related to any ongoing criminal investigations, Prison Rape Elimination Act (PREA) investigations, or other information, records or investigations deemed confidential by the Special Investigations Division of the department, as well as the Special Investigations Division evidence rooms and certain video and tape recordings; and

(3) clarify the scope of the ombudsperson's rights and responsibilities under the substitute in regard to publicizing inspection reports and accessing facilities and inmate records to investigate a complaint.

**FISCAL IMPACT:**

The Office of Legislative Services (OLS) estimates that this bill may result in an indeterminate increase in expenditures incurred by the Department of Corrections (DOC), county correctional facilities, and the Office of the Corrections Ombudsperson in, but not of, the Department of the Treasury.

The bill requires the Department of Corrections and county correctional facilities Statewide to adopt various policies concerning primary caretakers of children. The OLS is unable to estimate the number of inmates in DOC and county correctional facilities who would meet the criteria of a "primary caretaker parent."

The bill expands certain duties and responsibilities of the Office of the Corrections Ombudsperson. Most notably, the bill requires the Corrections Ombudsperson to conduct regular inspections of all DOC facilities and issue public reports of those inspections, with some confidential information being exempt from review and reporting. The OLS is unable to determine the extent to which these additional responsibilities will result in an increase in State costs.

**LEGISLATIVE FISCAL ESTIMATE**  
**SENATE COMMITTEE SUBSTITUTE FOR**  
**SENATE, No. 2540**  
**STATE OF NEW JERSEY**  
**218th LEGISLATURE**

DATED: OCTOBER 30, 2019

**SUMMARY**

**Synopsis:** "Dignity for Incarcerated Primary Caretaker Parents Act."

**Type of Impact:** Indeterminate cost increases to State and county governments.

**Agencies Affected:** Department of Corrections; County Correction Facilities; Office of the Corrections Ombudsman in the Department of the Treasury.

**Office of Legislative Services Estimate**

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
<b>State and Local Annual Cost Increase</b>		Indeterminate	

- The Office of Legislative Services (OLS) estimates that this legislation may result in an indeterminate expenditure increase as a result of the requirements incurred by the Department of Corrections (DOC), county correctional facilities, and the Office of the Corrections Ombudsman in, but not of, the Department of the Treasury.
- The legislation requires the Department of Corrections and county correctional facilities Statewide to adopt various policies concerning primary caretakers of children; the OLS is unable to estimate the number of inmates in DOC and county correctional facilities who would meet the criteria of a “primary caretaker parent.”
- The legislation expands certain duties and responsibilities of the Office of the Corrections Ombudsperson. The OLS is unable to determine to what extent the legislation would expand the office’s current duties and responsibilities, but the most notable expansion is the requirement to conduct regular inspections of all department facilities and issue public reports of all inspections.
- The legislation establishes a nine person advisory board to advise the Office of the Corrections Ombudsman.

## **BILL DESCRIPTION**

This legislation establishes the “Dignity for Incarcerated Primary Caretaker Parents Act,” which requires the Department of Corrections and county correctional facilities Statewide to adopt various policies concerning primary caretakers of children.

Under the legislation, State and county correctional facilities are required to:

- Place an inmate, who is being assigned to a State facility, who has a child in a correctional facility as close as possible to that child’s place of residence;
- Establish certain policies that encourage and provide visitation, particularly for inmates who are primary caretaker parents;
- Prohibit solitary confinement and shackling of pregnant inmates;
- Provide parenting classes to inmates who are primary caretakers;
- Provide trauma informed care to inmates who are primary caretakers and train corrections officers on how to interact with victims of trauma;
- Permit certain former inmates to mentor incarcerated parents and assist them with reentry;
- Provide, free of charge, feminine hygiene products that meet industry standards, including, but not limited to, multiple sizes of tampons, sanitary pads, and liners, as well as Vaseline, aspirin, ibuprofen and any other items deemed appropriate by the commissioner;
- Prohibit corrections officers and other employees of the opposite sex from entering restrooms of inmates except when necessary; and
- Allow pregnant women and inmates who are primary caretaker parents to enroll in residential drug abuse programs.

The legislation expands certain duties and responsibilities of the Office of the Corrections Ombudsperson, including conducting investigations of inmate complaints and conducting inspections of State correctional facilities. The office is required to submit annual reports to the Governor and the Legislature.

Finally, the legislation establishes an advisory board comprised of gubernatorial and legislative appointees with appropriate expertise to advise the office.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

None received.

### ***OFFICE OF LEGISLATIVE SERVICES***

The OLS estimates that this legislation may result in an indeterminate expenditure increase as a result of the requirements incurred by the DOC, county correctional facilities, and the Office of the Corrections Ombudsman in, but not of, the Department of the Treasury.

The OLS is unable to estimate the number of DOC and county correctional inmates who would meet the criteria of a “primary caretaker parent.” DOC reported that as of January 2, 2019 there were 19,212 DOC inmates. The Sentencing Project, a group that supports sentencing reforms and alternatives to incarceration, estimated the county correctional facility population to be 15,235 in 2016.

**Expenditures:** The legislation requires the placement of an inmate, who has a child, in a State correctional facility as close as possible to that child’s place of residence. The OLS estimates this

requirement may result in an unknown, potentially large number of inmates being placed in certain State correctional facilities, versus others, than would otherwise occur. Further, the requirement may compel the State to redesign facilities to hold females in what are at present all-male facilities so they are closer to their children.

Expanded visitation programs for all inmates may result in facility costs and staffing costs, including overtime, especially in high-security facilities.

The OLS is uncertain about the educational offerings at the DOC and county correctional facilities; however notes, if parenting classes, trauma informed care classes, and residential drug abuse programs for primary caretaker parents are not currently offered, the cost impact will be determined by the number of inmates entitled to take the classes. Further, if DOC and county correctional officers are required to complete trauma informed training, the OLS determines this training could be incorporated into standard training curriculum required. Although OLS does not have access to the number of county corrections officers Statewide, according to the 2016 New Jersey Uniform Crime Report, the DOC employed 5,835 full time corrections officers.

The legislation requires standard feminine hygiene products, including but not limited to, tampons and sanitary pads, to be provided at no charge at the request of female inmates. Although the number of female inmates at county correctional facilities is unavailable, as of January 2, 2019, there were 609 female inmates at Edna Mahan. The cost for sanitary supplies may range between \$50,000 and \$100,000 annually.

The legislation's restriction on corrections officers and department employees from entering restrooms of inmates of the opposite sex may correlate to reassignments of certain officers. Again, OLS does not have county correction employee data, but according to the 2016 New Jersey Uniform Crime Report, the State employed an estimated 5,835 officers, 4,808 were male and 1,027 were female. November 2018 figures provided directly from the DOC indicated that of the 264 correctional officers employed at Edna Mahan, only 110 were females.

Further, the legislation expands the duties and responsibilities of the Office of the Corrections Ombudsperson. The OLS is unable to determine to what extent the legislation would expand the office's duties and responsibilities from the office's current duties and responsibilities. The office's budget is about \$770,000, excluding fringe benefits, with a staff of eight members.

Currently, the office is responsible for establishing and implementing procedures to elicit, receive, process, respond, and resolve complaints from inmates in State correctional facilities, their families, other interested citizens, public officials, and government agencies concerning conditions of confinement. The legislation specifically charges the office with providing information to inmates and their families; promoting public awareness and understanding of the rights of inmates; identifying systemic issues and possible responses; and ensuring compliance with relevant laws and policies.

The most notable expansion of the legislation is the requirement to conduct investigations of inmate complaints; conduct regular inspections of all department facilities; issue public reports of all inspections and to be provided access to correctional facilities and inmate records. Although the legislation does not detail the purpose of the required inspections, the OLS determined that staff may need to expand to perform this requirement by a minimum of two members. One full-time employee is estimated to cost between \$75,000 and \$100,000 annually.

Lastly, the legislation establishes a nine person advisory board to advise the Office of the Corrections Ombudsman. The legislation is silent on monetary support for the board.

FE to SCS for S2540

4

*Section: Law and Public Safety*

*Analyst: Kristin Brunner Santos  
Senior Fiscal 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]  
 SENATE COMMITTEE SUBSTITUTE FOR  
**SENATE, No. 2540**  
**STATE OF NEW JERSEY**  
**218th LEGISLATURE**

DATED: DECEMBER 19, 2019

**SUMMARY**

**Synopsis:** "Dignity for Incarcerated Primary Caretaker Parents Act."

**Type of Impact:** Indeterminate cost increases to State and county governments.

**Agencies Affected:** Department of Corrections; County Correction Facilities; Office of the Corrections Ombudsman in the Department of the Treasury.

**Office of Legislative Services Estimate**

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
<b>State and Local Annual Cost Increase</b>		Indeterminate	

- The Office of Legislative Services (OLS) estimates that this legislation may result in an indeterminate expenditure increase as a result of the requirements incurred by the Department of Corrections (DOC), county correctional facilities, and the Office of the Corrections Ombudsman in, but not of, the Department of the Treasury.
- The legislation requires the Department of Corrections and county correctional facilities Statewide to adopt various policies concerning primary caretakers of children; the OLS is unable to estimate the number of inmates in DOC and county correctional facilities who would meet the criteria of a “primary caretaker parent.”
- The legislation expands certain duties and responsibilities of the Office of the Corrections Ombudsperson. The OLS is unable to determine to what extent the legislation would expand the office’s current duties and responsibilities, but the most notable expansion is the requirement to conduct regular inspections of all department facilities and issue public reports of all inspections.
- The legislation establishes a nine person advisory board to advise the Office of the Corrections Ombudsman.



## **BILL DESCRIPTION**

This legislation establishes the “Dignity for Incarcerated Primary Caretaker Parents Act,” which requires the Department of Corrections and county correctional facilities Statewide to adopt various policies concerning primary caretakers of children.

Under the legislation, State and county correctional facilities are required to:

- Place an inmate, who is being assigned to a State facility, who has a child in a correctional facility as close as possible to that child’s place of residence;
- Establish certain policies that encourage and provide visitation, particularly for inmates who are primary caretaker parents;
- Prohibit solitary confinement and shackling of pregnant inmates;
- Provide parenting classes to inmates who are primary caretakers;
- Provide trauma informed care to inmates who are primary caretakers and train corrections officers on how to interact with victims of trauma;
- Permit certain former inmates to mentor incarcerated parents and assist them with reentry;
- Provide, free of charge, feminine hygiene products that meet industry standards, including, but not limited to, multiple sizes of tampons, sanitary pads, and liners, as well as Vaseline, aspirin, ibuprofen and any other items deemed appropriate by the commissioner;
- Prohibit corrections officers and other employees of the opposite sex from entering restrooms of inmates except when necessary; and
- Allow pregnant women and inmates who are primary caretaker parents to enroll in residential drug abuse programs.

The legislation expands certain duties and responsibilities of the Office of the Corrections Ombudsperson, including ensuring that certain investigations of inmate complaints have been conducted and conducting inspections of State correctional facilities. The office is required to submit annual reports to the Governor and the Legislature.

Finally, the legislation establishes an advisory board comprised of gubernatorial and legislative appointees with appropriate expertise to advise the office.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

None received.

### ***OFFICE OF LEGISLATIVE SERVICES***

The OLS estimates that this legislation may result in an indeterminate expenditure increase as a result of the requirements incurred by the DOC, county correctional facilities, and the Office of the Corrections Ombudsman in, but not of, the Department of the Treasury.

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**Expenditures:** The legislation requires the placement of an inmate, who has a child, in a State correctional facility as close as possible to that child’s place of residence. The OLS estimates this

requirement may result in an unknown, potentially large number of inmates being placed in certain State correctional facilities, versus others, than would otherwise occur. Further, the requirement may compel the State to redesign facilities to hold females in what are at present all-male facilities so they are closer to their children.

Expanded visitation programs for all inmates may result in facility costs and staffing costs, including overtime, especially in high-security facilities.

The OLS is uncertain about the educational offerings at the DOC and county correctional facilities; however notes, if parenting classes, trauma informed care classes, and residential drug abuse programs for primary caretaker parents are not currently offered, the cost impact will be determined by the number of inmates entitled to take the classes. Further, if DOC and county correctional officers are required to complete trauma informed training, the OLS determines this training could be incorporated into standard training curriculum required. Although OLS does not have access to the number of county corrections officers Statewide, according to the 2016 New Jersey Uniform Crime Report, the DOC employed 5,835 full time corrections officers.

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The legislation's restriction on corrections officers and department employees from entering restrooms of inmates of the opposite sex may correlate to reassignments of certain officers. Again, OLS does not have county correction employee data, but according to the 2016 New Jersey Uniform Crime Report, the State employed an estimated 5,835 officers, 4,808 were male and 1,027 were female. November 2018 figures provided directly from the DOC indicated that of the 264 correctional officers employed at Edna Mahan, only 110 were females.

Further, the legislation expands the duties and responsibilities of the Office of the Corrections Ombudsperson. The OLS is unable to determine to what extent the legislation would expand the office's duties and responsibilities from the office's current duties and responsibilities. The office's budget is about \$770,000, excluding fringe benefits, with a staff of eight members.

Currently, the office is responsible for establishing and implementing procedures to elicit, receive, process, respond, and resolve complaints from inmates in State correctional facilities, their families, other interested citizens, public officials, and government agencies concerning conditions of confinement. The legislation specifically charges the office with providing information to inmates and their families; promoting public awareness and understanding of the rights of inmates; identifying systemic issues and possible responses; and ensuring compliance with relevant laws and policies.

The most notable expansion of the legislation is the requirement to ensure that certain investigations of inmate complaints have been conducted; conduct regular inspections of all department facilities; issue public reports of all inspections and to be provided access to correctional facilities and inmate records. Although the legislation does not detail the purpose of the required inspections, the OLS determined that staff may need to expand to perform this requirement by a minimum of two members. One full-time employee is estimated to cost between \$75,000 and \$100,000 annually.

Lastly, the legislation establishes a nine person advisory board to advise the Office of the Corrections Ombudsman. The legislation is silent on monetary support for the board.



FE to [1R] SCS for S2540

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*Section: Law and Public Safety*

*Analyst: Kristin Brunner Santos  
Senior Fiscal 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 Dignity for Incarcerated Primary Caretaker Parents Act

01/9/2020

## *Law Will Make Serious Reforms to Lessen Impact of Imprisonment on Families*

**TRENTON** – Governor Phil Murphy today signed A3979, also known as the Dignity for Incarcerated Primary Caretaker Parents Act. This Act will make it easier for incarcerated parents to keep in touch with their family members and specifically improve prison conditions for incarcerated pregnant women.

“For too long, our criminal justice system has not fully taken into account the circumstances of imprisoned parents and imprisoned pregnant women,” **said Governor Murphy**. “I am proud to sign this bill to ensure that incarcerated caretakers are given the support and services they need to build and maintain strong connections with their families, preparing them to return to their communities.”

“With the Dignity Act now signed into law, New Jersey has taken another important step to restore justice to our criminal justice system,” **said Senator Cory Booker**. “A majority of women behind bars are survivors of trauma or abuse and our current system is not equipped to provide the trauma-informed care these women deserve. This legislation will make a series of common-sense changes to address their unique circumstances, treating them more decently and humanely, and ultimately, better preparing them for successful lives outside of prison. I applaud Governor Murphy for signing this into law and Senators Teresa Ruiz and Linda Greenstein, and Assemblywomen Yvonne Lopez, Valerie Vainieri Huttle and Verlina Reynolds-Jackson for their tireless work to move this through our state’s legislature.”

“The Dignity for Incarcerated Primary Caretaker Parents Act aligns with our mission to operate safe and humane facilities and supports our efforts in creating opportunities for parent and child bonding,” **said New Jersey Department of Corrections Acting Commissioner Marcus O. Hicks, Esq.** “We believe parent and child bonding is a critical component that supports successful re-entry into society.”

The bill requires the Commissioner of Corrections and the chief executive officer or warden of each county correctional facility to adopt the following policies, many of which are already implemented as a matter of practice:

- Place primary caretaker parent inmates in a facility as close to their children as possible;
- Prohibit solitary confinement of pregnant inmates and preventing the use of restraints during labor;
- Provide parenting classes and trauma informed care for inmates; and
- Permit former inmates to serve as mentors to incarcerated parents and support them with re-entry efforts.

The bill was sponsored by Assemblymembers Yvonne Lopez, Valerie Vainieri Huttle, and Verlina Reynolds-Jackson, and Senators Linda Greenstein, Nilsa Cruz-Perez, and Teresa Ruiz.

“Today, the State of New Jersey enacts one of the strongest inmate advocacy laws in the nation,” **said Assemblywoman Yvonne Lopez**. “For far too long inmates and their families have suffered from outdated policies and a lack of basic rights. The Dignity Act will afford inmates the protections they deserve to improve reentry and make the prison experience rehabilitative instead of punitive.”

“Prison sentences should not destroy families,” **said Assemblywoman Valerie Vainieri Huttle**. “Women should not be shackled while incarcerated during childbirth. By signing this bill into law, we are helping families to stay connected, reducing rates of recidivism and ensuring that women are provided protections from negligence and abuse while serving their sentence.”

“Children often bear emotional and psychological scars due to the actions of their parents, many of whom were victims of similar wounds themselves,” **said Assemblywoman Verlina Reynolds-Jackson**. “This law is intended to help prevent such dysfunction, which in some instances is generational.”

“One tragedy of mass incarceration is that people are locked away from view and made to feel forgotten. By recognizing that real reform requires tearing down the walls that prevent injustices in prison from seeing the light of day, this law is a historic step forward not just for the state, but nationwide. This law recognizes that helping people maintain the bonds that matter most to all of us strengthens New Jersey as a whole. Especially given the distressing fact that New Jersey’s Black-white racial disparity in incarceration is the most severe in the country, it’s essential that implementation of this law is as much about racial justice as it is about criminal justice,” **said ACLU-NJ Executive Director Amol Sinha.**

“Governor Murphy is taking yet another step toward creating a culture of restoration in the New Jersey justice system,” **said Marshall Justice Rountree, organizer for NJ-CAIC.** “He recognizes that the only effective way to provide treatment for people is to treat them like people. By signing the Dignity Act, our governor is taking a stand for smart and sound correctional policy, which refuses to use trauma and isolation as an instrument of correction.”