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FLOOR AMENDMENT STATEMENT: Yes 7/30/2020

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RWH/CL

§§1,3-5 -
C.30:4-123.100 to
30:4-123.103
§§2,6-7 -
C.2A:4A-44.2 to
2A:4A-44.4
§8 –
C.30:4-123.55f
§10 - Note

P.L. 2020, CHAPTER 111, *approved October 19, 2020*
Senate, No. 2519 (*Fourth Reprint*)

1 AN ACT concerning public health emergency credits, amending
2 N.J.S.2C:47-3, and ³amending and³ supplementing Title 30 of the
3 Revised Statutes and P.L.1993, c.133 (C.2A:4A-44).
4

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

8 1. (New section) a. In addition to credits awarded pursuant to
9 R.S.30:4-92; section 3 of P.L.2009, c.330 (C.30:4-92a); and
10 R.S.30:4-140, whenever a public health emergency, pursuant to the
11 "Emergency Health Powers Act," P.L.2005, c.222 (C.26:13-1 et
12 seq.), has been declared by the Governor and is in effect, the
13 commissioner also shall award inmates public health emergency
14 credits in accordance with this section if the public health
15 emergency:

16 (1) arises as a result of a communicable or infectious disease;
17 and

18 (2) results in ²[the modification of] substantial modifications to
19 department-wide² correctional facility operations.

20 b. Except as provided in subsection ¹[c.] d.¹ of this section,
21 public health emergency credits shall be awarded to any inmate in
22 the custody of the ¹[Department] Commissioner¹ of Corrections
23 who ¹:

24 (1)¹ is serving a sentence or receiving jail credits applicable to
25 the sentence ¹; and

26 (2) is scheduled to be released from the custody of the
27 Commissioner of Corrections within ²[twelve months] 365 days² .

28 c.¹ The ¹public health emergency¹ credits ¹awarded pursuant to
29 this section¹ shall provide further remission from both the
30 maximum and minimum term of the inmate's sentence ², including
31 the statutory mandatory minimum term,² at the rate of ¹[six]

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:

¹Senate SCM committee amendments adopted July 22, 2020.

²Senate floor amendments adopted July 30, 2020.

³Senate SLP committee amendments adopted August 25, 2020.

⁴Assembly ABU committee amendments adopted September 21, 2020.

1 ²~~four~~¹ months] 122 days² for each month, or portion thereof,
2 served during the declared emergency. An inmate shall not be
3 awarded public health emergency credits in excess of ¹~~12~~
4 ²~~eight~~¹ months] 244 days² of remission for any declared
5 emergency.

6 ¹~~c.~~ d.¹ Public health emergency credits shall not be awarded
7 to an inmate ²serving a sentence in a State correctional facility for
8 ⁴.

9 (1) murder pursuant to N.J.S.2C:11-3;

10 (2) aggravated sexual assault pursuant to subsection a. of
11 N.J.S.2C:14-2; or

12 (3)⁴ any offense enumerated in N.J.S.2C:47-1 and² whose
13 conduct was characterized by a pattern of repetitive, compulsive
14 behavior ²~~pursuant to N.J.S.2C:47-3~~² .

15 ¹~~d.~~ e.¹ Nothing in this section shall be deemed to limit ¹~~or~~
16 ~~affect~~¹ an inmate's eligibility for parole consideration as provided
17 for in section 10 of P.L.1948, c.84 (C.30:4-123.1 et seq.).

18 ¹f. An inmate who was in the custody of the Commissioner of
19 Corrections during the Public Health Emergency and State of
20 Emergency declared by the Governor in Executive Order 103 of
21 2020 concerning the coronavirus disease 2019 pandemic shall
22 receive public health emergency credits in accordance with this
23 section.

24 g. ³~~Except as provided in subsection h. of this section, an~~
25 An³ inmate scheduled to be released from the custody of the
26 Commissioner of Corrections following an award of public health
27 emergency credits pursuant to this section shall be released on the
28 scheduled release date based on the award of public health
29 emergency credits.

30 h. An inmate who is ³~~scheduled to be released on or within~~
31 five days following the effective date of P.L. , c. (C.)
32 (pending before the Legislature as this bill) shall be released either
33 on the date of the entry of an order entered pursuant to section ²~~6~~
34 ⁵ of P.L. , c. (C.) (pending before the Legislature as this
35 bill), or the date ²~~the prosecutor notifies~~² the court ²~~determines~~²
36 that no order shall be entered ²~~pursuant to subsection b. of section~~
37 5 of P.L. , c. (C.) (pending before the Legislature as this
38 bill)] because there is no identifiable victim of the crime for which
39 the inmate is serving a sentence² , whichever occurs sooner;
40 however, under no circumstances shall the inmate be released later
41 than five days following the effective date] released from custody
42 following an award of public health emergency credits pursuant to
43 this section shall be prohibited from making contact with any victim
44 of the crime for which the inmate was serving a sentence, as set
45 forth in section ⁵ of P.L. , c. (C.) (pending before the
46 Legislature as this bill) ³, which prohibition shall remain in force

1 until the time that the inmate was scheduled to be released from
2 custody prior to the award of public health emergency credits³.

3 i. ³**【The】** Prior to releasing an inmate from the custody of the
4 commissioner following an award of public health emergency
5 credits pursuant to section 1 of P.L. , c. (C.) (pending
6 before the Legislature as this bill), the³ commissioner shall
7 ³**【provide a copy of any order entered】** :

8 (1) notify the inmate in writing of the prohibition against
9 making contact with any victim of the crime for which the inmate
10 was convicted³ pursuant to section ²**【6】** ⁵ of P.L. , c. (C.)
11 (pending before the Legislature as this bill) ³**【to the inmate prior to**
12 the inmate’s release from the custody of the commissioner】;

13 (2) notify the inmate in writing that a violation of the
14 prohibition against contact with a victim is a crime of the fourth
15 degree;

16 (3) require the inmate to acknowledge in writing the receipt of
17 the written notifications related to the contact prohibition provided
18 pursuant to this subsection.

19 j. In addition to the requirements set forth in subsection i. of
20 this section and any other relevant provision under current law
21 related to the provision of information and services to inmates, prior
22 to releasing an inmate from the custody of the commissioner
23 following an award of public health emergency credits pursuant to
24 section 1 of P.L. , c. (C.) (pending before the Legislature
25 as this bill), the commissioner shall compile and disseminate to
26 inmates information concerning organizations and programs,
27 whether faith-based or secular programs, which provide assistance
28 and services to inmates reentering society after a period of
29 incarceration.

30 k. Within 30 days prior to an inmate’s release from the custody
31 of the commissioner following an award of public health emergency
32 credits pursuant to section 1 of P.L. , c. (C.) (pending before
33 the Legislature as this bill), the commissioner shall provide any
34 available information related to the inmate’s:

- 35 (1) eligibility for Medicaid;
36 (2) housing information;
37 (3) identification information; and
38 (4) eligibility for any other benefits and services.

39 l. Subject to the availability of the testing resources of the
40 Department of Corrections, an inmate shall be tested for COVID-19
41 prior to the inmate’s release from the custody of the commissioner
42 following an award of public health emergency credits pursuant to
43 section 1 of P.L. , c. (C.) (pending before the Legislature
44 as this bill) if the inmate is released during the Public Health
45 Emergency and State of Emergency declared by the Governor in
46 Executive Order 103 of 2020 concerning the coronavirus disease
47 2019 pandemic³ .¹

1 ²[3.] 2.² (New section) a. Except as provided in subsection b.
2 of this section, ¹[the procedures and standards for the award of
3 credits set forth in R.S.30:4-92; section 3 of P.L.2009, c.330
4 (C.30:4-92a);] the award of public health emergency credits
5 pursuant to¹ section 1 of P.L. , c. (C.) (pending before the
6 Legislature as this bill) ¹]; and R.S.30:4-140]¹ shall apply to any
7 juvenile serving a sentence in a State correctional facility operated
8 by the Juvenile Justice Commission ¹who ²due to the expiration of
9 the juvenile's term of commitment² is scheduled to be released from
10 custody within ²[twelve months¹] 365 days² .

11 b. Public health emergency credits shall not be awarded to any
12 juvenile ²serving a sentence in a State correctional facility operated
13 by the Juvenile Justice Commission for ⁴:

14 (1) murder pursuant to N.J.S.2C:11-3;

15 (2) aggravated sexual assault pursuant to subsection a. of
16 N.J.S.2C:14-2; or

17 (3)⁴ any offense enumerated in N.J.S.2C:47-1 and² who is
18 deemed a repetitive, compulsive sex offender.

19 ¹c. A juvenile who was serving a sentence in a State
20 correctional facility operated by the Juvenile Justice Commission
21 during the Public Health Emergency and State of Emergency
22 declared by the Governor in Executive Order 103 of 2020
23 concerning the coronavirus disease 2019 pandemic shall receive
24 public health emergency credits in accordance with section 1 of
25 P.L. , c. (C.) (pending before the Legislature as this bill).

26 d. ³[Except as provided in subsection e. of this section, a] A³
27 juvenile scheduled to be released from the custody of the Juvenile
28 Justice Commission following an award of public health emergency
29 credits ³[pursuant to]³ pursuant to section 1 of P.L. ,
30 c. (C.) (pending before the Legislature as this bill) shall be
31 released on the scheduled release date based on the award of public
32 health emergency credits.

33 e. ²(1) Notwithstanding the provisions of subsection d. of this
34 section ³[and subject to the provisions of paragraph (2) of this
35 subsection]³ , a juvenile scheduled to be released from the custody
36 of the Juvenile Justice Commission following an award of public
37 health emergency credits pursuant to section 1 of P.L. ,
38 c. (C.) (pending before the Legislature as this bill) whose
39 scheduled release date is less than 45 days after the effective date of
40 P.L. , c. (C.) (pending before the Legislature as this bill)
41 shall be released within 45 days after the effective date, in order to
42 allow the Juvenile Justice Commission to devise and implement a
43 release plan for the juvenile and arrange for services to be provided
44 to the juvenile upon release.

1 (2)² A juvenile who is ³scheduled to be released ²on or within
 2 five days following the effective date of P.L. , c. (C.)
 3 (pending before the Legislature as this bill)] in accordance with
 4 paragraph (1) of this subsection² shall be released either on the date
 5 of the entry of an order entered pursuant to section ²[9] 8² of
 6 P.L. , c. (C.) (pending before the Legislature as this bill),
 7 or the date ²[the prosecutor notifies]² the court ²determines² that
 8 no order shall be entered ²[pursuant to subsection b. of section 8 of
 9 P.L. , c. (C.) (pending before the Legislature as this bill)]
 10 because there is no identifiable victim of the crime for which the
 11 juvenile is serving a sentence² , whichever occurs sooner; however,
 12 under no circumstances shall the juvenile be released later than
 13 ²[five] fifty² days following the effective date] released from
 14 custody following an award of public health emergency credits
 15 pursuant to this section shall be prohibited from making contact
 16 with a victim as set forth in section 5³ of P.L. , c. (C.)
 17 (pending before the Legislature as this bill) ³, which prohibition
 18 shall remain in force until the time that the juvenile was scheduled
 19 to be released prior to the award of public health emergency
 20 credits³ .

21 f. ³[The] Prior to releasing a juvenile from the custody of the
 22 Juvenile Justice Commission following an award of public health
 23 emergency credits pursuant to section 1 of P.L. , c. (C.)
 24 (pending before the Legislature as this bill), the³ Executive Director
 25 of the Juvenile Justice Commission shall ³[provide a copy of any
 26 order entered] :

27 (1) notify the juvenile in writing of the prohibition against
 28 making contact with any victim of the crime for which the juvenile
 29 was serving a sentence³ pursuant to section ²[9] ³[8²] 5³ of
 30 P.L. , c. (C.) (pending before the Legislature as this bill)
 31 ³[to the juvenile prior to the juvenile's release from the custody of
 32 the Juvenile Justice Commission] ;

33 (2) notify the juvenile that a violation of the prohibition against
 34 contact with the victim is a crime of the fourth degree; and

35 (3) require the juvenile to acknowledge in writing the receipt of
 36 the notifications provided pursuant to this subsection³ .¹

38 ²[14.] 3.² (New section) a. The Commissioner of Corrections
 39 shall immediately identify any inmate who is scheduled to be released
 40 from custody within ²[12 months] 365 days² as a result of the award
 41 of public health emergency credits pursuant to section 1 of P.L. , c.
 42 (C.) (pending before the Legislature as this bill).

43 b. ²[The] Notwithstanding any provision of law to the contrary,
 44 the² Commissioner of Corrections shall provide notice to the
 45 ³[appropriate court and to the]³ prosecutor of the county in which the

1 inmate was convicted or the Attorney General if the matter was
 2 prosecuted by the Attorney General. The notice shall include:

3 (1) the name of any inmate who is scheduled to be released from
 4 the custody of the Commissioner of Corrections within ²[12 months]
 5 365 days² as a result of the award of public health emergency credits;

6 (2) the date on which the inmate is scheduled to be released from
 7 custody based on the award of public health emergency credits; and

8 (3) the date on which the inmate was scheduled to be released
 9 from custody prior to the award of public health emergency credits.

10 c. The Commissioner of Corrections shall make available to the
 11 public on the Internet website of the Department of Corrections, in
 12 both English and Spanish, information concerning:

13 (1) the procedures for filing an application for a ³[final]³
 14 restraining order pursuant to the "Prevention of Domestic Violence
 15 Act of 1991," P.L.1991, c.261 (C.2C:25-17 et seq.);

16 (2) resources for victims of domestic violence; and

17 (3) procedures ³established by the court³ for filing a petition to
 18 dissolve ³[an order entered pursuant to] the prohibition established
 19 pursuant³ section ²[6] ⁵ of P.L. , c. (C.) (pending before the
 20 Legislature as this bill) ³prohibiting an inmate from making contact
 21 with any victim of the crime for which the inmate is serving a
 22 sentence³ .¹

23
 24 ²[15.] ⁴ (New section) a. Upon receipt of notice from the
 25 Commissioner of Corrections that an inmate is scheduled to be
 26 released from custody within ²[12 months] 365 days² based on the
 27 award of public health emergency credits pursuant to section 1 of
 28 P.L. , c. (C.) (pending before the Legislature as this bill), the
 29 prosecutor or Attorney General ²[shall, not less than five days] may,²
 30 prior to the inmate's scheduled release date:

31 (1) use any reasonable means available to notify any identifiable
 32 victim of the crime for which the inmate is incarcerated of the inmate's
 33 scheduled release date;

34 (2) notify the identifiable victim that ³[an order will be entered
 35 prohibiting]³ the law prohibits the inmate from having any contact
 36 with the victim ²[unless the victim requests that an order not be
 37 entered]² ³unless a petition is filed with the court to dissolve the
 38 prohibition³ ;

39 (3) notify the victim of the ³[date that the order ²[, if entered,]²
 40 will expire] duration of the prohibition against contact³ ;

41 (4) notify the victim of the penalties imposed for the inmate's
 42 violation of the ³[order] prohibition against contact³ ;

43 (5) provide information to the victim concerning the procedures
 44 for filing a petition ³with the court³ to dissolve ³[an order prohibiting]
 45 the prohibition against³ the inmate ³[from]³ having ³[any]³ contact
 46 with the victim; and

1 (6) provide information to the victim concerning the procedures
 2 for filing an application for a ³[final]³ restraining order pursuant to
 3 the "Prevention of Domestic Violence Act of 1991," P.L.1991, c.261
 4 (C.2C:25-17 et seq.), and resources for victims of domestic violence.

5 b. ³[The prosecutor or Attorney General, as appropriate, shall
 6 immediately notify the court ²[and the Department of Corrections
 7 whether:

8 (1)] of the identity of any identifiable victim who shall be the
 9 subject of² an order prohibiting the inmate from having any contact
 10 with the victim ²[shall be entered, based on the prosecutor's contact
 11 with the victim or the prosecutor's inability to contact the victim; or

12 (2) an order prohibiting the inmate from having any contact with
 13 the victim shall not be entered based on a request by the victim]² .

14 c.]³ The Attorney General shall make available to the public on
 15 the Internet website of the Department of Law and Public Safety, in
 16 both English and Spanish, information concerning:

17 (1) the procedures for filing an application for a ³[final]³
 18 restraining order pursuant to the "Prevention of Domestic Violence
 19 Act of 1991," P.L.1991, c.261 (C.2C:25-17 et seq.);

20 (2) resources for victims of domestic violence; and

21 (3) procedures for filing ³with the court³ a petition to dissolve
 22 ³[an order entered pursuant to] the prohibition established pursuant
 23 to³ section ²[6] ⁵ of P.L. , c. (C.) (pending before the
 24 Legislature as this bill) ³prohibiting an inmate or juvenile, as the case
 25 may be, from making contact with the victim³ .¹

26
 27 ²[¹6.] ³[⁵.² (New section) a. ²[Upon] Notwithstanding the
 28 provisions of any law to the contrary, upon² receipt of notice from
 29 the Department of Corrections pursuant to section ²[4] ³ of
 30 P.L. c. (C.) (pending before the Legislature as this bill),
 31 and notice from the prosecutor pursuant to section ²[5] ⁴ of
 32 P.L. c. (C.) (pending before the Legislature as this bill), the
 33 court shall enter an order in accordance with this section.

34 b. The court shall enter an order prohibiting the inmate from
 35 having any contact with ²[an] any² identifiable victim ²[if:

36 (1) the prosecutor notifies the court that an identifiable victim
 37 does not oppose the entry of an order; or

38 (2) the prosecutor was unable to contact the identifiable
 39 victim]² .

40 c. Any order entered pursuant to subsection b. of this section
 41 shall ²:

42 (1)² expire on the date, as provided by the Commissioner of
 43 Corrections pursuant to section ²[4] ³ of P.L. c. (C.)
 44 (pending before the Legislature as this bill), that the inmate was
 45 scheduled to be released prior to the award of public health
 46 emergency credits ²; and

1 (2) include information concerning the procedures for filing a
 2 petition to dissolve the order² .

3 d. The court shall provide a copy of any order entered pursuant
 4 to subsection b. of this section to the commissioner immediately
 5 upon entry of the order but no later than the date on which the
 6 inmate is scheduled to be released pursuant to section 1 of
 7 P.L. c. (C.) (pending before the Legislature as this bill).

8 e. An inmate shall be guilty of a crime of the fourth degree if
 9 the inmate purposely or knowingly violates an order entered
 10 pursuant to subsection b. of this section.¹】³

11
 12 ³5. (New section) a. An inmate who is released from the
 13 custody of the Commissioner of Corrections or a juvenile who is
 14 released from the custody of the Juvenile Justice Commission
 15 following an award of public health emergency credits pursuant to
 16 section 1 of P.L. , c. (C.) (pending before the Legislature
 17 as this bill), from the date of release until the date the inmate or
 18 juvenile, as the case may be, was scheduled to be released prior to
 19 the award of public health emergency credits, shall be prohibited
 20 from purposely or knowingly making contact with any victim of the
 21 crime for which the inmate or juvenile was serving a sentence.

22 For purposes of this subsection, making contact with a victim
 23 shall include contact made personally by the inmate or juvenile, as
 24 the case may be, or through an agent, and shall include but not be
 25 limited to: personal, written, electronic, or telephone contact or
 26 communication; or entering the residence, property, school, or place
 27 of employment of the victim.

28 b. A violation of subsection a. of this section shall be a crime
 29 of the fourth degree.

30 c. (1) A petition may be filed with the court to dissolve the
 31 prohibition established pursuant to the provisions this section
 32 prohibiting an inmate or juvenile, as the case may be, from making
 33 contact with the victim in accordance with procedures established
 34 by the court.

35 (2) The Director of the Administrative Director of the Courts
 36 shall provide the Department of Corrections, Juvenile Justice
 37 Commission, and Attorney General with information concerning the
 38 procedures established by the court for filing a petition to dissolve
 39 the prohibition established pursuant to this section prohibiting an
 40 inmate or juvenile, as the case may be, from making contact with
 41 any victim of the crime for which the inmate or juvenile was
 42 serving a sentence.³

43
 44 ²【¹7.】^{6.2} (New section) a. The Executive Director of the
 45 Juvenile Justice Commission shall immediately identify any juvenile
 46 who is scheduled to be released from the custody of the Juvenile
 47 Justice Commission within ²【twelve months】 ²365 days² as a result of

1 the award of public health emergency credits pursuant to section 1 of
 2 P.L. , c. (C.) (pending before the Legislature as this bill).

3 b. ²[The] Notwithstanding any provisions of law to the contrary,
 4 the² Executive Director of the Juvenile Justice Commission shall
 5 provide notice to the ³[appropriate court and to the]³ prosecutor of the
 6 county in which the juvenile was adjudicated delinquent or the
 7 Attorney General if the matter was prosecuted by the Attorney
 8 General. The notice shall include:

9 (1) the name of any juvenile who ², due to the expiration of the
 10 juvenile's term of commitment,² is scheduled to be released from the
 11 custody of the Juvenile Justice Commission within ²[twelve months]
 12 365 days² as a result of the award of public health emergency credits;

13 (2) the date on which the juvenile is scheduled to be released from
 14 custody based on the award of public health emergency credits; and

15 (3) the date on which the juvenile was scheduled to be released
 16 from custody prior to the award of public health emergency credits.

17 c. The Executive Director of the Juvenile Justice Commission
 18 shall make available to the public on the Internet website of the
 19 Juvenile Justice Commission, in both English and Spanish,
 20 information concerning:

21 (1) the procedures for filing an application for a ³[final]³
 22 restraining order pursuant to the "Prevention of Domestic Violence
 23 Act of 1991," P.L.1991, c.261 (C.2C:25-17 et seq.);

24 (2) resources for victims of domestic violence; and

25 (3) procedures for filing ³with the court³ a petition to dissolve
 26 ³[an order entered pursuant to] the prohibition established pursuant
 27 to³ section ²[9] ³[8²] ⁵ of P.L. , c. (C.) (pending before the
 28 Legislature as this bill) ³prohibiting a juvenile from making contact
 29 with any victim of the crime for which the juvenile was serving a
 30 sentence³ .¹

31

32 ²[¹8.] 7.² (New section) ³[a.]³ ²[Upon] Notwithstanding the
 33 provisions of any law to the contrary, upon² receipt of notice from the
 34 Executive Director of the Juvenile Justice Commission that a juvenile
 35 is scheduled to be released from the custody of the Juvenile Justice
 36 Commission within ²[12 months] 365 days² based on the award of
 37 public health emergency credits pursuant to section 1 of P.L. , c.
 38 (C.) (pending before the Legislature as this bill), the prosecutor or
 39 Attorney General, ²[not less than five days]² prior to the juvenile's
 40 scheduled release date ²[shall] , may² :

41 ³[(1)] a.³ use any reasonable means available to notify any
 42 identifiable victim of the crime for which the juvenile is serving a
 43 sentence in a State correctional facility operated by the Juvenile Justice
 44 Commission of the juvenile's scheduled release date;

45 ³[(2)] b.³ notify the identifiable victim that ³[an order will be
 46 entered prohibiting] the law prohibits³ the juvenile from having any

1 contact with the victim ²[unless the victim requests that an order not
 2 be entered]² ³unless a petition is filed with the court to dissolve the
 3 prohibition in accordance with the procedures established by the
 4 court³ ;

5 ³[(3)] c.³ notify the victim of the ³[date that the order ²[, if
 6 entered.]² will expire] duration of the prohibition against the juvenile
 7 having contact with the victim³ ;

8 ³[(4)] d.³ notify the victim of the penalties imposed for the
 9 juvenile's violation of the ³[order] prohibition against contact³ ;

10 ³[(5)] e.³ provide information to the victim concerning how ³[the
 11 victim may file]³ a petition ³may be filed with the court³ to dissolve
 12 ³[an order prohibiting] the prohibition against³ the juvenile ³[from]³
 13 having ³[any]³ contact with the victim; and

14 ³[(6)] f.³ provide information to the victim concerning the
 15 procedures for filing an application for a ³[final]³ restraining order
 16 pursuant to the "Prevention of Domestic Violence Act of 1991,"
 17 P.L.1991, c.261 (C.2C:25-17 et seq.), and resources for victims of
 18 domestic violence.

19 ³[b. The prosecutor or Attorney General, as appropriate, shall
 20 immediately notify the court and the Juvenile Justice Commission
 21 ²whether:

22 ²[(1)] of the identity of any identifiable victim who shall be the
 23 subject of² an order prohibiting the juvenile from having any contact
 24 with the victim ²[shall be entered, based on the prosecutor's contact
 25 with the victim or the prosecutor's inability to contact the victim; or

26 ²[(2)] an order prohibiting the juvenile from having any contact with
 27 the victim shall not be entered based on a request by the victim]² . ¹³

28
 29 ²[19.] ³[8.2 (New section) a. Upon receipt of notice from the
 30 Department of Corrections pursuant to section ²[7] ⁶ of
 31 P.L. c. (C.) (pending before the Legislature as this bill), and
 32 notice from the prosecutor pursuant to section ²[8] ⁷ of
 33 P.L. c. (C.) (pending before the Legislature as this bill), the
 34 court shall enter an order in accordance with this section.

35 b. The court shall enter an order prohibiting the juvenile from
 36 having any contact with ²[an] ²any² identifiable victim ²[if:

37 ²[(1)] the prosecutor notifies the court that an identifiable victim
 38 does not oppose the entry of an order; or

39 ²[(2)] the prosecutor was unable to contact the identifiable
 40 victim]² .

41 c. Any order entered pursuant to subsection b. of this section
 42 shall ²;

43 ²[(1)] expire on the date, as provided by the Executive Director of
 44 the Juvenile Justice Commission pursuant to section ²[7] ⁶ of
 45 P.L. c. (C.) (pending before the Legislature as this bill), that

1 the juvenile was scheduled to be released prior to the award of
2 public health emergency credits²; and

3 (2) include information concerning the procedures for filing a
4 petition to dissolve the order² .

5 d. The court shall provide a copy of any order entered pursuant
6 to subsection b. of this section to the Executive Director of the
7 Juvenile Justice Commission immediately upon entry of the order
8 but no later than the date on which the juvenile is scheduled to be
9 released pursuant to section ²[3] ² of P.L. c. (C.) (pending
10 before the Legislature as this bill).

11 e. A juvenile shall be guilty of a crime of the fourth degree if
12 the juvenile purposely or knowingly violates an order entered
13 pursuant to subsection b. of this section.¹³

14

15 ³8. (New section) a. Whenever a public health emergency,
16 pursuant to the "Emergency Health Powers Act," P.L.2005, c.222
17 (C.26:13-1 et seq.), has been declared by the Governor and is in
18 effect, the term of supervision of a parolee shall be reduced by the
19 award of public health emergency credits pursuant to this section if
20 the public health emergency arises as a result of a communicable or
21 infectious disease.

22 b. Except as provided in subsection d. of this section, public
23 health emergency credits shall be awarded to any person who is
24 serving a sentence of parole supervision if the full maximum term
25 for which the parolee was sentenced, or the term authorized by the
26 parolee's disposition, expires within 365 days.

27 c. The public health emergency credits awarded pursuant to
28 this section shall reduce the term of supervision of a parolee at the
29 rate of 122 days for each month, or portion thereof, served during
30 the declared emergency. A parolee shall not be awarded public
31 health emergency credits in excess of 244 days of remission for any
32 declared emergency.

33 d. Public health emergency credits shall not be awarded to a
34 parolee who has been sentenced to a special sentence of community
35 supervision for life or parole supervision for life.

36 e. A parolee for whom a warrant has been issued by the State
37 Parole Board and parole revocation proceedings have been initiated
38 shall be ineligible to receive public health emergency credits.

39 f. Nothing in this section shall be deemed to limit a parolee's
40 eligibility to receive parole compliance credits pursuant to section 5
41 of P.L.2019, c.364 (C.30:4-123.55e).

42

43 ³9. Section 5 of P.L.2019, c.364 (C.30:4-123.55e) is amended to
44 read as follows:

45 5. Notwithstanding the provisions of subsection a. of section 7
46 of P.L.1979, c.441 (C.30:4-123.51), any person granted parole,
47 except a person serving a parole term set forth in subsection c. of

1 section 2 of P.L.1997, c.117 (C.2C:43-7.2) or section 2 of P.L.1994,
 2 c.130 (C.2C:43-6.4), shall have the parole term reduced by parole
 3 compliance credits at a rate of one day for every six days of parole
 4 supervision the person has completed.

5 Credits awarded pursuant to this section shall cease to accrue
 6 upon the issuance of a warrant by the State Parole Board and
 7 initiation of parole revocation proceedings. Any credits earned
 8 pursuant to this section shall be forfeited upon the revocation of
 9 parole.

10 Any compliance credits awarded pursuant to this section based
 11 on actions for which parole revocation proceedings were initiated,
 12 but did not result in a revocation of parole and return to custody,
 13 shall be forfeited upon a determination by the board panel or board
 14 that the actions for which compliance credits were awarded violated
 15 a condition of parole.

16 Nothing in this section shall be deemed to limit a parolee's
 17 eligibility to receive public health emergency credits pursuant to
 18 section 8 of P.L. , c. (C.) (pending before the Legislature
 19 as this bill).³

20 (cf. P.L.2019, c.364, s.5)

21

22 ¹[4.] ²[10.¹] ³[9.²] 10.³ This act shall take effect
 23 ¹[immediately] on the ²[sixth] sixteenth² day ²next² following the
 24 date of enactment; however, the Commissioner of Corrections,
 25 Attorney General, Executive Director of the Juvenile Justice
 26 Commission, ³Chairman of the State Parole Board,³ and Director of
 27 the Administrative Office of the Courts shall take any anticipatory
 28 action necessary in advance thereof to effectuate the purposes of
 29 this ²[bill¹] act².

30

31

32

33

34 Requires public health emergency credits to be awarded to
 35 certain inmates and parolees during public health emergency;
 36 prohibits contact with victim upon release of inmate awarded
 37 credits.

SENATE, No. 2519

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED JUNE 4, 2020

Sponsored by:

Senator NELLIE POU

District 35 (Bergen and Passaic)

Senator SANDRA B. CUNNINGHAM

District 31 (Hudson)

Co-Sponsored by:

Senators Weinberg, Vitale, Diegnan, Turner and Cruz-Perez

SYNOPSIS

Requires public health emergency credits to be awarded to certain inmates during public health emergency declared by Governor.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 7/9/2020)

1 AN ACT concerning public health emergency credits, amending
2 N.J.S.2C:47-3, and supplementing Title 30 of the Revised
3 Statutes and P.L.1993, c.133 (C.2A:4A-44).

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

7
8 1. (New section) a. In addition to credits awarded pursuant to
9 R.S.30:4-92; section 3 of P.L.2009, c.330 (C.30:4-92a); and
10 R.S.30:4-140, whenever a public health emergency, pursuant to the
11 "Emergency Health Powers Act," P.L.2005, c.222 (C.26:13-1 et
12 seq.), has been declared by the Governor and is in effect, the
13 commissioner also shall award inmates public health emergency
14 credits in accordance with this section if the public health
15 emergency:

16 (1) arises as a result of a communicable or infectious disease;
17 and

18 (2) results in the modification of correctional facility operations.

19 b. Except as provided in subsection c. of this section, public
20 health emergency credits shall be awarded to any inmate in the
21 custody of the Department of Corrections who is serving a sentence
22 or receiving jail credits applicable to the sentence. The credits shall
23 provide further remission from both the maximum and minimum
24 term of the inmate's sentence at the rate of six months for each
25 month, or portion thereof, served during the declared emergency.
26 An inmate shall not be awarded public health emergency credits in
27 excess of 12 months of remission for any declared emergency.

28 c. Public health emergency credits shall not be awarded to an
29 inmate whose conduct was characterized by a pattern of repetitive,
30 compulsive behavior pursuant to N.J.S.2C:47-3.

31 d. Nothing in this section shall be deemed to limit or affect an
32 inmate's eligibility for parole consideration as provided for in
33 section 10 of P.L.1948, c.84 (C.30:4-123.1 et seq.).

34

35 2. N.J.S.2C:47-3 is amended to read as follows:

36 2C:47-3. Disposition.

37 a. If the report of the examination reveals that the offender's
38 conduct was characterized by a pattern of repetitive, compulsive
39 behavior and further reveals that the offender is amenable to sex
40 offender treatment and is willing to participate in such treatment,
41 the court shall determine whether the offender's conduct was so
42 characterized and whether the offender is amenable to sex offender
43 treatment and is willing to participate in such treatment and shall
44 record its findings on the judgment of conviction.

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

Matter underlined thus is new matter.

1 b. If the court finds that the offender's conduct was
2 characterized by a pattern of repetitive, compulsive behavior and
3 that the offender is amenable to sex offender treatment and is
4 willing to participate in such treatment, the court shall, upon the
5 recommendation of the Department of Corrections, sentence the
6 offender to a term of incarceration to be served in the custody of the
7 commissioner at the Adult Diagnostic and Treatment Center for sex
8 offender treatment as provided in subsection h. of this section, or
9 place the offender on probation with the requirement, as a condition
10 of probation, that he receive outpatient psychological or psychiatric
11 treatment as prescribed.

12 c. A sentence of incarceration or probation imposed pursuant to
13 subsection b. or f. of this section shall be set in accordance with
14 chapters 43, 44 and 45 of this Title.

15 d. The court shall impose sentence in accordance with chapters
16 43, 44 and 45 of this Title and not as provided in subsection b. of
17 this section if it shall appear from the report of the examination
18 made of the offender pursuant to section N.J.S.2C:47-1 that the
19 offender's conduct was not characterized by a pattern of repetitive,
20 compulsive behavior or that the offender is not amenable to sex
21 offender treatment. Notwithstanding the provisions of R.S.30:4-140
22 or R.S.30:4-92 or any other law, a sentence imposed pursuant to
23 this subsection on an offender who is not amenable to sex offender
24 treatment shall not be reduced by commutation time for good
25 behavior or credits for diligent application to work and other
26 institutional assignments.

27 e. (Deleted by amendment, P.L.1998, c.72).

28 f. If the court finds that the offender's conduct was
29 characterized by a pattern of repetitive, compulsive behavior and
30 that the offender is amenable to sex offender treatment, but that the
31 offender is not willing to participate in such treatment, the court
32 shall sentence the offender to a term of incarceration to be served in
33 a facility designated by the commissioner pursuant to section 2 of
34 P.L.1969, c.22 (C.30:4-91.2). The offender shall become primarily
35 eligible for parole in accordance with the provisions of
36 N.J.S.2C:47-5; provided, however, no offender shall become
37 primarily eligible for parole prior to the expiration of any judicial or
38 statutory mandatory minimum term. An offender who meets the
39 criteria of this subsection may, on a biennial basis, request to be
40 transferred to the Adult Diagnostic and Treatment Center. Within
41 90 days after receiving a request for a transfer, the Department of
42 Corrections shall conduct a psychological examination. If, upon the
43 completion of a psychological examination, the Department of
44 Corrections determines that the offender is amenable to sex
45 offender treatment and is willing to participate in such treatment,
46 the commissioner may order the offender to be transferred to the
47 Adult Diagnostic and Treatment Center.

1 g. Notwithstanding the provisions of R.S.30:4-140 **[or]** ,
2 R.S.30:4-92, section 1 of P.L. c. (C.) (pending before the
3 Legislature as this bill), or any other law, a sentence imposed
4 pursuant to subsection f. of this section shall not be reduced by
5 commutation time for good behavior or credits for diligent
6 application to work and other institutional assignments for any year
7 or fractional part of a year that the offender is confined in a facility
8 other than the Adult Diagnostic and Treatment Center; provided,
9 however, if the offender is at any time transferred to the Adult
10 Diagnostic and Treatment Center pursuant to subsection f. of this
11 section, the sentence imposed on the offender shall be reduced by
12 commutation time for good behavior and credits for diligent
13 application to work and other institutional assignments for any year
14 or fractional part of a year that the offender is incarcerated at the
15 Adult Diagnostic and Treatment Center following the date of such
16 transfer.

17 h. An offender sentenced to a term of incarceration pursuant to
18 subsection b. of this section shall be confined as follows:

19 (1) If the court imposes a sentence of seven years or less, the
20 Department of Corrections shall confine the offender to the Adult
21 Diagnostic and Treatment Center as soon as practicable after the
22 date of sentence.

23 (2) If the court imposes a sentence of more than seven years, the
24 Department of Corrections shall confine the offender in a facility
25 designated by the commissioner pursuant to section 2 of P.L.1969,
26 c.22 (C.30:4-91.2). At least 30 days prior to the date which
27 precedes the expiration date of the offender's sentence by five years,
28 including any reductions for commutation time for good behavior
29 and credits for diligent application to work and other institutional
30 assignments, the Department of Corrections shall complete a
31 psychological examination of the offender to determine the
32 offender's amenability to sex offender treatment and willingness to
33 participate in such treatment; provided, however, no such
34 examination shall be required if less than two years has elapsed
35 since the Department of Corrections completed a psychological
36 examination pursuant to N.J.S.2C:47-1. If the report of the
37 examination reveals that the offender is amenable to sex offender
38 treatment and is willing to participate in such treatment, the
39 offender shall be transferred to the Adult Diagnostic and Treatment
40 Center as soon as practicable. If the report of the examination
41 reveals that the offender is not amenable to sex offender treatment,
42 the offender shall not be transferred to the Adult Diagnostic and
43 Treatment Center. If the report of the examination reveals that the
44 offender is amenable to sex offender treatment but is not willing to
45 participate in such treatment, the offender shall not be transferred to
46 the Adult Diagnostic and Treatment Center. An offender may, on a
47 biennial basis, request to be transferred to the Adult Diagnostic and
48 Treatment Center. Within 90 days after receiving a request for a

1 transfer, the Department of Corrections shall conduct a
2 psychological examination. If, upon the completion of a
3 psychological examination, the Department of Corrections
4 determines that the offender is amenable to sex offender treatment
5 and is willing to participate in such treatment, the commissioner
6 shall order the offender to be transferred to the Adult Diagnostic
7 and Treatment Center as soon as practicable.

8 (3) If a sentence is imposed pursuant to section 2 of P.L.1997,
9 c.117 (C.2C:43-7.2) or if any other judicial or statutory mandatory
10 minimum term of more than seven years is imposed, the offender
11 shall be confined in a facility designated by the commissioner
12 pursuant to section 2 of P.L.1969, c.22 (C.30:4-91.2). At least 30
13 days prior to the date which precedes the expiration date of the
14 mandatory minimum term by five years, the Department of
15 Corrections shall complete a psychological examination of the
16 offender to determine the offender's amenability to sex offender
17 treatment and willingness to participate in such treatment; provided,
18 however, no such examination shall be required if less than two
19 years has elapsed since the Department of Corrections completed a
20 psychological examination pursuant to N.J.S.2C:47-1. If the report
21 of the examination reveals that the offender is amenable to sex
22 offender treatment and is willing to participate in such treatment,
23 the offender shall be transferred to the Adult Diagnostic and
24 Treatment Center as soon as practicable. If the report of the
25 examination reveals that the offender is not amenable to sex
26 offender treatment, the offender shall not be transferred to the Adult
27 Diagnostic and Treatment Center. If the report of the examination
28 reveals that the offender is amenable to sex offender treatment, but
29 is not willing to participate in such treatment, the offender shall not
30 be transferred to the Adult Diagnostic and Treatment Center. An
31 offender may, on a biennial basis, request to be transferred to the
32 Adult Diagnostic and Treatment Center. Within 90 days after
33 receiving a request for a transfer, the Department of Corrections
34 shall conduct a psychological examination. If upon completion of a
35 psychological examination the Department of Corrections
36 determines that the offender is amenable to sex offender treatment
37 and is willing to participate in such treatment, the commissioner
38 shall order the offender to be transferred to the Adult Diagnostic
39 and Treatment Center as soon as practicable.

40 i. Notwithstanding the provisions of R.S. 30:4-140 or R.S.
41 30:4-92 or any other law, a sentence imposed pursuant to subsection
42 b. of this section shall not be reduced by commutation time for good
43 behavior or credits for diligent application to work and other
44 institutional assignments for any year or fractional part of a year
45 from the date the Department of Corrections determines, as a result
46 of a psychological evaluation conducted pursuant to paragraph (2)
47 or (3) of subsection h. of this section, that the offender is not
48 amenable to sex offender treatment or not willing to participate in

1 such treatment; provided, however, if the offender is subsequently
2 determined by the Department of Corrections to be amenable to sex
3 offender treatment and willing to participate in such treatment and
4 is transferred to the Adult Diagnostic and Treatment Center, the
5 sentence imposed on the offender shall be reduced by commutation
6 time for good behavior and credits for diligent application to work
7 and other institutional assignments for any year or fractional part of
8 a year that the offender is incarcerated at the Adult Diagnostic and
9 Treatment Center following the date of such transfer.

10 j. An offender who is sentenced to a term of life imprisonment
11 without eligibility for parole shall not be confined in the Adult
12 Diagnostic and Treatment Center but shall be confined in a facility
13 designated by the commissioner pursuant to section 2 of P.L. 1969,
14 c.22 (C.30:4-91.2).

15 k. The commissioner shall be required to provide for the
16 treatment of a sex offender sentenced pursuant to N.J.S.2C:47-1 et
17 seq. only when the offender is incarcerated in the Adult Diagnostic
18 and Treatment Center. This requirement shall not apply when the
19 offender is incarcerated in another facility.
20 (cf: P.L.1998, c.72, s.3)

21
22 3. (New section) a. Except as provided in subsection b. of this
23 section, the procedures and standards for the award of credits set
24 forth in R.S.30:4-92; section 3 of P.L.2009, c.330 (C.30:4-92a);
25 section 1 of P.L. c. (C.) (pending before the Legislature as
26 this bill); and R.S.30:4-140 shall apply to any juvenile serving a
27 sentence in a State correctional facility operated by the Juvenile
28 Justice Commission.

29 b. Public health emergency credits shall not be awarded to any
30 juvenile who is deemed a repetitive, compulsive sex offender.

31
32 4. This act shall take effect immediately.

33

34

35

STATEMENT

36

37 This bill requires public health emergency credits to be awarded
38 to certain inmates during a public health emergency declared by the
39 Governor in order to provide remission of time from their
40 sentences.

41 The COVID-19 death rate of inmates in New Jersey is the
42 highest in the country. While the State of New Jersey has been
43 severely impacted by the COVID-19 pandemic, inmates in this
44 State have been afflicted at a particularly alarming rate, as the
45 inability of inmates to quarantine or practice social distancing
46 creates a higher risk to their lives. In providing a method to award
47 these credits, it is the sponsor's intent to expedite the release of
48 certain inmates who are approaching the end of their sentences in

1 order to reduce the risk of harm to inmates and correctional facility
2 staff, while simultaneously protecting the public safety.

3 This bill provides for public health emergency credits to be
4 awarded to certain inmates in the event a public health emergency is
5 declared by the Governor that arises as a result of a communicable
6 or infectious disease, and results in the modification of correctional
7 facility operations.

8 Under the bill, public health emergency credits are to be awarded
9 to any inmate in the custody of the Department of Corrections who
10 is serving a sentence or receiving jail credits applicable to the
11 sentence. The credits would provide further remission from both the
12 maximum and minimum term of the inmate's sentence at the rate of
13 six months for each month, or portion of each month, served during
14 the declared emergency with a maximum of 12 months of remission
15 to be awarded for any declared emergency period. The award of
16 public health emergency credits is not to limit or affect an inmate's
17 eligibility for parole consideration.

18 Public health emergency credits are not to be awarded under the
19 bill to an inmate who has been deemed a repetitive, compulsive sex
20 offender.

21 The bill also provides that juvenile offenders, other than those
22 deemed to be repetitive, compulsive sex offenders, are eligible to
23 receive public health emergency credits. The bill further provides
24 that these juveniles are eligible to receive other credits provided
25 under current law.

ASSEMBLY BUDGET COMMITTEE

STATEMENT TO

[Third Reprint]

SENATE, No. 2519

with committee amendments

STATE OF NEW JERSEY

DATED: SEPTEMBER 22, 2020

The Assembly Budget Committee reports favorably Senate Bill No. 2519 (3R) with amendments.

As amended and reported by the committee, Senate Bill No. 2519 (3R) requires public health emergency credits to be awarded to certain inmates, juveniles, and parolees during a public health emergency declared by the Governor to provide remission of time from an inmate's or juvenile's sentence, and a parolee's term of parole. The amended bill also prohibits contact with any identifiable victim following the release of an inmate or juvenile awarded credits, and requires certain reentry information to be provided prior to release.

The COVID-19 death rate of inmates in New Jersey is the highest in the country. Inmates in this State have been afflicted at a particularly alarming rate due to the inability to quarantine or practice social distancing. The provisions of this amended bill would expedite the release of certain inmates and juveniles who are approaching the end of their sentences to reduce the risk of harm to inmates, juveniles, and facility staff, while protecting the public safety.

The amended bill provides for public health emergency credits to be awarded to an inmate in the custody of the Department of Corrections (DOC) or a juvenile in the custody of the Juvenile Justice Commission (JJC) who is scheduled to be released from custody within one year. The credits are to be awarded if a public health emergency is declared by the Governor in response to a communicable or infectious disease, and results in substantial modification to department-wide correctional facility operations. The credits would reduce the inmate or juvenile's sentence at the rate of four months for each month, or portion of each month, served during the declared emergency, with a maximum of eight months of remission to be awarded for any declared emergency period. The bill also provides that an award of public health emergency credits is not to limit or affect an inmate's eligibility for parole consideration. Public health emergency credits would not be awarded to any inmate or juvenile who is serving a sentence for murder, aggravated sexual assault, or who has been deemed a repetitive, compulsive sex offender.

A juvenile who is awarded credits under the bill, and whose scheduled release date is less than 45 days following the effective date of the bill, is to be released within 45 days after the effective date of the bill in order to enable the JJC to devise and implement a release plan for the juvenile and arrange for services to be provided to the juvenile upon release.

Under the bill, an inmate or juvenile who is released following an award of credits is prohibited from making contact with any victim of the crime for which the inmate or juvenile was serving a sentence. This contact prohibition is to remain in force from the date the inmate or juvenile is released until the date the inmate or juvenile was scheduled to be released from custody prior to the award of credits. Specifically, the amended bill would prohibit any contact, either personally or through an agent, that includes personal, written, electronic, or telephone contact with the victim, or entering the victim's residence, property, school, or place of employment.

The court is required to establish procedures for filing a petition to dissolve the contact prohibition. An inmate or juvenile who purposely or knowingly violates the contact prohibition is guilty of a crime of the fourth degree, which is punishable by a term of imprisonment of up to 18 months, a fine of up to \$10,000 or both.

Prior to releasing an inmate following an award of public health emergency credits, the DOC and JJC are required to notify the inmate or juvenile, as appropriate, in writing of the contact prohibition, and that a violation of the contact prohibition is a crime of the fourth degree. The DOC and JJC also are to require the inmate to acknowledge receipt, in writing, of the written notifications related to the contact prohibition provided under the amended bill.

The DOC is required under the bill to provide inmates, prior to release, with information concerning reentry organizations and programs. The DOC also is required, within 30 days prior to releasing an inmate following an award of credits, to provide any available information related to the inmate's eligibility for Medicaid, housing information, identification information, and eligibility for any other benefits and services. Subject to the availability of DOC testing resources, the DOC is required to test an inmate for COVID-19 prior to release following an award of public health emergency credits if the inmate is released during the Public Health Emergency and State of Emergency declared by the Governor in Executive Order 103 of 2020 concerning the coronavirus disease 2019 pandemic.

The provisions of the amended bill also require the DOC or JJC, as appropriate, to notify the appropriate court and the prosecutor of the county in which the inmate was convicted or the Attorney General if the matter was prosecuted by the Attorney General of: the name of any inmate or juvenile who is scheduled to be released from custody within 12 months as a result of the award of credits; the date the

inmate or juvenile is scheduled to be released; and the date the inmate or juvenile was scheduled to be released prior to the award of credits.

Information concerning the procedures for filing an application for a domestic violence restraining order, resources for victims of domestic violence, and the procedures for filing a petition to dissolve the contact prohibition established under the bill are to be made available in both English and Spanish on the DOC, JJC, and Department of Law and Public Safety websites.

The prosecutor or Attorney General may, prior to the scheduled release date, use any reasonable means available to notify an identifiable victim of: the crime for which the inmate or juvenile is serving a sentence of the inmate's or juvenile's scheduled release date, the law prohibiting the inmate or juvenile from having any contact with the victim, the date the contact prohibition will expire, the penalties imposed for a violation; information concerning the procedures for filing an application to dissolve the contact prohibition, the procedures for filing an application for a domestic violence restraining order, and resources for victims of domestic violence.

The provisions of the amended bill also require public health emergency credits to be awarded to a parolee whose term expires within one year if a public health emergency is declared by the Governor that arises as a result of a communicable or infectious disease. The credits would reduce the parolee's term of supervision at the rate of four months for each month, or portion of each month, of the parolee's term served during the declared emergency, with a maximum of eight months of remission awarded for any declared emergency period.

A parolee who has been sentenced to a special sentence of community supervision for life or parole supervision for life, or a parolee for whom a warrant has been issued or parole revocation proceedings have been initiated, is ineligible to receive credits under the amended bill. The amended bill further clarifies that the award of public health emergency credits are not to interfere with the award of compliance credits to be awarded to a parolee under current law. Likewise, an award of compliance credits is not to interfere with the award of public health emergency credits under the amended bill.

As amended and reported by the committee, this bill is identical to Assembly Bill No. 4235 (4R), which also was amended and reported by the committee.

COMMITTEE AMENDMENTS

The committee amended the bill to provide that an inmate or juvenile is not eligible to receive public health emergency credits if the inmate or juvenile is serving a sentence for murder or aggravated sexual assault. As introduced, only an inmate or juvenile who was deemed a repetitive, compulsive sex offender was ineligible to receive credits.

FISCAL IMPACT:

The Office of Legislative Services (OLS) concludes that accelerating the release date of certain inmates and juvenile offenders and reducing the parole term of certain parolees by up to eight months by awarding them public health emergency credits could lower the operating expenditures of the Department of Corrections (DOC), the State Parole Board (SPB), and the Juvenile Justice Commission (JJC) during times when a public health emergency is declared. However, the OLS is unable to quantify the savings from housing an offender or supervising parolees for a reduced period of time due to lack of sufficient data.

The OLS lacks sufficient information to quantify the overall fiscal impact as it is unclear as to how many offenders and parolees would be impacted by the provisions of this bill, and the frequency of such widespread infectious diseases resulting in a public health emergency cannot be accurately forecast. In general, however, the bill should result in lower State operating expenses during times when a public health emergency is declared.

The OLS concurs with the DOC that the State may incur some cost for COVID-19 testing under the provisions of the bill. However, the OLS is unable to project the number of inmates who would be eligible for early release and need testing.

SENATE COMMERCE COMMITTEE

STATEMENT TO

SENATE, No. 2519

with committee amendments

STATE OF NEW JERSEY

DATED: JULY 23, 2020

The Senate Commerce Committee reports favorably and with committee amendments Senate Bill No. 2519.

This bill requires public health emergency credits to be awarded to certain inmates during a public health emergency declared by the Governor. The credits would provide remission of time from the inmates' sentences. The bill also requires notice to any identifiable victim that an inmate who was awarded credits will be released, and requires the entry of a "no contact" order prohibiting the inmate from having contact with an identifiable victim under certain circumstances.

The COVID-19 death rate of inmates in New Jersey is the highest in the country. While the State of New Jersey has been severely impacted by the COVID-19 pandemic, inmates in this State have been afflicted at a particularly alarming rate, as the inability of inmates to quarantine or practice social distancing creates a higher risk to their lives. In providing a method to award these credits, it is the sponsor's intent to expedite the release of certain inmates who are approaching the end of their sentences in order to reduce the risk of harm to inmates and correctional facility staff, while simultaneously protecting the public safety.

The bill provides for public health emergency credits to be awarded to certain inmates in the event a public health emergency is declared by the Governor that arises as a result of a communicable or infectious disease, and results in the modification of correctional facility operations.

Under the bill, public health emergency credits are to be awarded to any inmate in the custody of the Department of Corrections (DOC) who is serving a sentence or receiving jail credits applicable to the sentence. The credits would provide further remission from both the maximum and minimum term of the inmate's sentence at the rate of four months for each month, or portion of each month, served during the declared emergency with a maximum of eight months of remission to be awarded for any declared emergency period. The award of public health emergency credits is not to limit or affect an inmate's eligibility for parole consideration.

Public health emergency credits are not to be awarded under the bill to an inmate who has been deemed a repetitive, compulsive sex offender. The bill also provides that juvenile offenders, other than those deemed to be repetitive, compulsive sex offenders, are eligible to receive public health emergency credits.

Under the bill, the Commissioner of Corrections or Executive Director of the Juvenile Justice Commission, as appropriate, is to notify the appropriate court and the prosecutor of the county in which the inmate was convicted or the Attorney General if the matter was prosecuted by the Attorney General of:

- the name of any inmate or juvenile who is scheduled to be released from custody within 12 months as a result of the award of credits;
- the date the inmate or juvenile is scheduled to be released; and
- the date the inmate or juvenile was scheduled to be released prior to the award of credits.

Information concerning the procedures for filing an application for a domestic violence final restraining order, resources for victims of domestic violence; and the procedures for filing a petition to dissolve a “no contact” order entered under the bill are to be made available on the DOC, Juvenile Justice Commission (JJC), and the Department of Law and Public Safety websites.

The prosecutor or Attorney General is required, not less than five days prior to the inmate or juvenile’s scheduled release date to:

- use any reasonable means available to notify any identifiable victim of the crime for which the inmate or juvenile is incarcerated of the scheduled release date; that a “no contact” order will be entered prohibiting the inmate or juvenile from having any contact with the victim, unless the victim requests that an order not be entered; the date that the order, if entered, will expire; and the penalties imposed for a violation; and
- provide information to the victim concerning how to dissolve a “no contact” order, the procedures for filing an application for a domestic violence final restraining order, and resources for victims of domestic violence.

The prosecutor or Attorney General is required to immediately notify the court and either the DOC or JJC of whether an order prohibiting the inmate from having any contact with the victim is to be entered, based on the prosecutor’s contact with the victim or inability to contact the victim.

The court is to enter an order prohibiting the inmate from having any contact with an identifiable victim if the prosecutor notifies the court that an identifiable victim does not oppose the entry of an order or the prosecutor was unable to contact the victim. Any order entered under the bill is to expire on the date that the inmate was scheduled to be released prior to the award of public health emergency credits. The court is to provide a copy of the order to the DOC or JJC, which is to

provide a copy of the order to the inmate or juvenile upon to release. An inmate or juvenile who purposely or knowingly violates a “no contact” order is guilty of a crime of the fourth degree. As crime of the fourth degree is punishable by imprisonment of up to 18 months, a fine of up to \$10,000, or both.

COMMITTEE AMENDMENTS

The committee amended the bill to:

(1) provide that only an inmate or juvenile who is to be released from custody within 12 months is eligible to receive public health emergency credits;

(2) reduce the award of credits from six months for each month served during a declared emergency to four months, and reduce the maximum award of credits from 12 months to eight months;

(3) provide that an inmate who was in the custody of the DOC or JJC during the coronavirus disease 2019 pandemic is to receive public health emergency credits;

(4) provide that an inmate or juvenile scheduled to be released from custody following an award of credits is to be released on the scheduled release date, except that an inmate or juvenile who is scheduled to be released on or within five days following the effective date of the bill is to be released either on the date of the entry of a “no contact” order or the date the prosecutor notifies the court that no order is to be entered, whichever occurs sooner; however, under no circumstances is the inmate to be released later than five days following the effective date of the bill;

(5) require the commissioner or executive director, as appropriate, to identify any inmate or juvenile to be released within 12 months from custody following an award of credits, and notify the appropriate court and prosecutor or Attorney General;

(6) establish procedures for notifying any identifiable victim of the inmate’s release and entry of a “no contact” order;

(7) require the entry of a “no contact” order prohibiting the inmate from having any contact with the victim, unless the victim objects to the entry of an order, which is to expire on the date the inmate was scheduled to be released prior to the award of credits;

(8) require any order entered to be provided to the inmate or juvenile upon release;

(9) provide that an inmate or juvenile who purposely or knowingly violates a “no contact” order is guilty of a crime of the fourth degree; and

(10) establish procedures for information to be provided to an identifiable victim and made publicly available on the DOC, JJC, and Department of Law and Public Safety websites concerning the filing of an application for a domestic violence final restraining order, resources for victims of domestic violence, and procedures for filing a petition to dissolve a “no contact” order.

SENATE LAW AND PUBLIC SAFETY COMMITTEE

STATEMENT TO

[Second Reprint]

SENATE, No. 2519

with committee amendments

STATE OF NEW JERSEY

DATED: AUGUST 21, 2020

The Senate Law and Public Safety Committee reports favorably and with committee amendments Senate Bill No. 2519 (2R).

The amended bill requires public health emergency credits to be awarded to certain inmates, juveniles, and parolees during a public health emergency declared by the Governor to provide remission of time from an inmate's or juvenile's sentence, and a parolee's term of parole. The amended bill also prohibits contact with any identifiable victim following the release of an inmate or juvenile awarded credits, and requires certain reentry information to be provided prior to release.

The COVID-19 death rate of inmates in New Jersey is the highest in the country. Inmates in this State have been afflicted at a particularly alarming rate due to the inability to quarantine or practice social distancing. The provisions of this amended bill would expedite the release of certain inmates and juveniles who are approaching the end of their sentences to reduce the risk of harm to inmates, juveniles, and facility staff, while protecting the public safety.

The amended bill provides for public health emergency credits to be awarded to an inmate in the custody of the Department of Corrections (DOC) or a juvenile in the custody of the Juvenile Justice Commission (JJC) who is scheduled to be released from custody within one year. The credits are to be awarded if a public health emergency is declared by the Governor in response to a communicable or infectious disease, and results in substantial modification to department-wide correctional facility operations. The credits would reduce the inmate or juvenile's sentence at the rate of four months for each month, or portion of each month, served during the declared emergency, with a maximum of eight months of remission to be awarded for any declared emergency period. The bill also provides that an award of public health emergency credits is not to limit or affect an inmate's eligibility for parole consideration. Public health emergency credits are not to be awarded to an inmate or juvenile who has been deemed a repetitive, compulsive sex offender.

A juvenile who is awarded credits under the bill, and whose scheduled release date is less than 45 days following the effective date

of the bill, is to be released within 45 days after the effective date of the bill in order to enable the JJC to devise and implement a release plan for the juvenile and arrange for services to be provided to the juvenile upon release.

Under the bill, an inmate or juvenile who is released following an award of credits is prohibited from making contact with any victim of the crime for which the inmate or juvenile was serving a sentence. This contact prohibition is to remain in force from the date the inmate or juvenile is released until the date the inmate or juvenile was scheduled to be released from custody prior to the award of credits. Specifically, the amended bill would prohibit any contact, either personally or through an agent, that includes personal, written, electronic, or telephone contact with the victim, or entering the victim's residence, property, school, or place of employment.

The court is required to establish procedures for filing a petition to dissolve the contact prohibition. An inmate or juvenile who purposely or knowingly violates the contact prohibition is guilty of a crime of the fourth degree, which is punishable by a term of imprisonment of up to 18 months, a fine of up to \$10,000 or both.

Prior to releasing an inmate following an award of public health emergency credits, the DOC and JJC are required to notify the inmate or juvenile, as appropriate, in writing of the contact prohibition, and that a violation of the contact prohibition is a crime of the fourth degree. The DOC and JJC also are to require the inmate to acknowledge receipt, in writing, of the written notifications related to the contact prohibition provided under the amended bill.

The DOC is required under the bill to provide inmates, prior to release, with information concerning reentry organizations and programs. The DOC also is required, within 30 days prior to releasing an inmate following an award of credits, to provide any available information related to the inmate's eligibility for Medicaid, housing information, identification information, and eligibility for any other benefits and services. Subject to the availability of DOC testing resources, the DOC is required to test an inmate for COVID-19 prior to release following an award of public health emergency credits if the inmate is released during the Public Health Emergency and State of Emergency declared by the Governor in Executive Order 103 of 2020 concerning the coronavirus disease 2019 pandemic.

The provisions of the amended bill also require the DOC or JJC, as appropriate, to notify the appropriate court and the prosecutor of the county in which the inmate was convicted or the Attorney General if the matter was prosecuted by the Attorney General of: the name of any inmate or juvenile who is scheduled to be released from custody within 12 months as a result of the award of credits; the date the inmate or juvenile is scheduled to be released; and the date the inmate or juvenile was scheduled to be released prior to the award of credits.

Information concerning the procedures for filing an application for a domestic violence restraining order, resources for victims of domestic violence, and the procedures for filing a petition to dissolve the contact prohibition established under the bill are to be made available in both English and Spanish on the DOC, JJC, and Department of Law and Public Safety websites.

The prosecutor or Attorney General may, prior to the scheduled release date, use any reasonable means available to notify an identifiable victim of: the crime for which the inmate or juvenile is serving a sentence of the inmate's or juvenile's scheduled release date, the law prohibiting the inmate or juvenile from having any contact the victim, the date the contact prohibition will expire, the penalties imposed for a violation; information concerning the procedures for filing an application to dissolve the contact prohibition, the procedures for filing an application for a domestic violence restraining order, and resources for victims of domestic violence.

The provisions of the amended bill also require public health emergency credits to be awarded to a parolee whose term expires within one year if a public health emergency is declared by the Governor that arises as a result of a communicable or infectious disease. The credits would reduce the parolee's term of supervision at the rate of four months for each month, or portion of each month, of the parolee's term served during the declared emergency, with a maximum of eight months of remission awarded for any declared emergency period.

A parolee who has been sentenced to a special sentence of community supervision for life or parole supervision for life, or a parole for a whom a warrant has been issued or parole revocation proceedings have been initiated, is ineligible to receive credits under the amended bill. The amended bill further clarifies that the award of public health emergency credits are not to interfere with the award of compliance credits to be awarded to a parolee under current law. Likewise, an award of compliance credits is not to interfere with the award of public health emergency credits under the amended bill.

COMMITTEE AMENDMENTS

The committee amended the bill to:

(1) replace the requirement that the court enter a "no contact" order with a statutory prohibition to prohibit an inmate or juvenile from purposely or knowingly making contact with any victim of the crime for which the inmate or juvenile was serving a sentence;

(2) require the contact prohibition to be in force from the date of the inmate's or juvenile's release until the date the inmate or juvenile was scheduled to be released prior to the award of public health emergency credits;

(3) provide that prohibited contact with a victim, either personally or through an agent, includes but is not limited to: personal, written,

electronic, or telephone contact or communication; or entering the residence, property, school, or place of employment of the victim;

(4) provide that a violation of the statutory contact prohibition is a crime of the fourth degree;

(5) require the DOC and JJC to notify an inmate or juvenile, as appropriate, in writing of the prohibition against making contact with a victim and that a violation of the contact prohibition is a crime of the fourth degree; and require the inmate or juvenile to acknowledge in writing the receipt of the written notifications;

(6) require the DOC, prior to releasing an inmate following an award of credits, to compile and disseminate to inmates information concerning organizations and programs, whether faith-based or secular programs, which provide assistance and services to inmates reentering society after a period of incarceration;

(7) require the DOC, within 30 days prior to releasing an inmate following an award of credits, to provide any available information related to the inmate's Medicaid eligibility, housing and identification information, and eligibility for any other benefits and services;

(8) require the DOC, subject to the availability of testing resources, to test an inmate for COVID-19 prior to release from the custody following an award of credits if the inmate is released during the COVID-19 Public Health Emergency and State of Emergency declared in the Governor's Executive Order 103;

(9) require the court to establish procedures for filing a petition to dissolve the contact prohibition and provide the DOC, JJC, and Attorney General with information concerning the procedures for filing a petition to dissolve the contact prohibition;

(10) require the Attorney General or prosecutor to provide information to the victim concerning: procedures for filing a petition to dissolve the contact prohibition, procedures for filing an application for a domestic violence restraining order, rather than specifically a "final" domestic violence restraining order, and resources for victims of domestic violence;

(11) require the information to be made available on the DOC, JJC, and the Department of Law and Public Safety websites to include the procedures for filing a petition to dissolve the contact prohibition established under the bill;

(12) require public health emergency credits to be awarded to certain parolees in the event a public health emergency is declared by the Governor related to a communicable or infectious disease;

(13) provide that public health emergency credits are to be awarded to a parolee whose term expires within one year, and that the credits would reduce the parolee's term of supervision at the rate of four months for each month, or portion of each month, of the parolee's term served during the declared emergency with a maximum of eight months of remission to be awarded for any declared emergency period;

(14) provide that credits are not to be awarded to a parolee who has been sentenced to a special sentence of community supervision for life or parole supervision for life, or for a whom a warrant has been issued or parole revocation proceedings have been initiated; and

(15) clarify that the award of public health emergency credits are not to interfere with the award of parole compliance credits.

STATEMENT TO
[First Reprint]
SENATE, No. 2519

with Senate Floor Amendments
(Proposed by Senator POU)

ADOPTED: JULY 30, 2020

Senate Bill No. 2519 (1R) requires public health emergency credits to be awarded to certain inmates during a public health emergency and requires the entry of a “no contact” order upon release of an inmate who is awarded credits.

These Senate amendments: clarify that public health emergency credits are to be awarded if a declared emergency results in the substantial modification of department-wide correctional facility operations; clarify that public health emergency credits awarded under the bill will reduce an inmate’s mandatory minimum term; provide that the provisions related to victim notification by the prosecutor or Attorney General are permissive, rather than mandatory; provide that a “no contact” order prohibiting an inmate or juvenile, as appropriate, from having any contact with an identifiable victim will be entered in each case in which there is an identifiable victim of the crime for which the inmate or juvenile is serving a sentence; require the court to include in the “no contact” order information concerning the procedures for filing a petition to dissolve the order; replace any references to months with the appropriate corresponding number of days; clarify that public health emergency credits are not to be awarded to any inmate who has been deemed a repetitive and compulsive sex offender, regardless of whether the person is in treatment; modify the provisions of the bill which relate to juveniles in the custody of the Juvenile Justice Commission (JJC) to provide that a juvenile who is awarded credits under the bill, and whose scheduled release date is less than 45 days following the effective date of the bill, is to be released within 45 days, but not later than 50 days, after the effective date of the bill in order to enable the JJC to devise and implement a release plan for the juvenile and arrange for services to be provided to the juvenile upon release; and provide that the bill is to take effect on the 16th day next following enactment.

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

SENATE, No. 2519 STATE OF NEW JERSEY 219th LEGISLATURE

DATED: JULY 31, 2020

SUMMARY

- Synopsis:** Requires public health emergency credits to be awarded to certain inmates during public health emergency; requires notice to victim and entry of “no contact” order upon release of inmate awarded credits.
- Type of Impact:** Periodic State expenditure decrease.
- Agencies Affected:** Department of Corrections, Juvenile Justice Commission.

Office of Legislative Services Estimate

Fiscal Impact	
Periodic State Cost Decrease	Indeterminate

- The Office of Legislative Services (OLS) concludes that accelerating the release date of certain inmates and juvenile offenders by up to eight months by awarding them public health emergency credits could lower the operating expenditures of the Department of Corrections (DOC) and the Juvenile Justice Commission (JJC) during times when a public health emergency is declared. However, the OLS is unable to quantify the savings from housing an offender for a reduced period of time due to lack of sufficient data.
- The OLS lacks sufficient information to quantify the overall fiscal impact as it is unclear as to how many offenders would be impacted by the provisions of this bill. Furthermore, the frequency of such widespread infectious diseases resulting in a public health emergency cannot be accurately forecast.

BILL DESCRIPTION

This bill requires public health emergency credits to be awarded to certain inmates during a public health emergency declared by the Governor. The credits would provide remission of time from the inmates’ sentences. The bill also requires notice to any identifiable victim that an inmate

who was awarded credits will be released, and requires the entry of a “no contact” order prohibiting the inmate from having contact with an identifiable victim under certain circumstances.

Under the bill, public health emergency credits are to be awarded to any inmate in the custody of the DOC who is serving a sentence or receiving jail credits applicable to the sentence. The credits would provide further remission from both the maximum and minimum term of the inmate’s sentence at the rate of four months for each month, or portion of each month, served during the declared emergency with a maximum of eight months of remission to be awarded for any declared emergency period. The award of public health emergency credits is not to limit or affect an inmate’s eligibility for parole consideration.

Public health emergency credits are not to be awarded under the bill to an inmate who has been deemed a repetitive, compulsive sex offender. The bill also provides that juvenile offenders, other than those deemed to be repetitive, compulsive sex offenders, are eligible to receive public health emergency credits.

Under the amended, the Commissioner of Corrections or Executive Director of the Juvenile Justice Commission, as appropriate, is to notify the appropriate court and the prosecutor of the county in which the inmate was convicted or the Attorney General if the matter was prosecuted by the Attorney General and provide details such as name and release date of the inmate or juvenile to be released due to public health emergency credits.

The prosecutor or Attorney General is required, not less than five days prior to the inmate or juvenile’s scheduled release date to notify any identifiable victim of the crime of the scheduled release date; that a “no contact” order will be entered prohibiting the inmate or juvenile from having any contact with the victim; the date that the order, if entered, will expire; and the penalties imposed for a violation; and provide information to the victim concerning how to dissolve a “no contact” order, the procedures for filing an application for a domestic violence final restraining order, and resources for victims of domestic violence.

The court is to enter an order prohibiting the inmate from having any contact with an identifiable victim if the prosecutor notifies the court that an identifiable victim does not oppose the entry of an order or the prosecutor was unable to contact the victim. Any order entered under the bill is to expire on the date that the inmate was scheduled to be released prior to the award of public health emergency credits. An inmate or juvenile who purposely or knowingly violates a “no contact” order is guilty of a crime of the fourth degree. A crime of the fourth degree is punishable by imprisonment of up to 18 months, a fine of up to \$10,000, or both.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS concludes that accelerating the release date of certain inmates and juvenile offenders by up to eight months by awarding them public health emergency credits could lower the operating expenditures of the DOC and the JJC during times when a public health emergency is declared. However, the OLS is unable to quantify the likely reduction in housing costs due to lack of sufficient information and the unpredictability of the frequency of such widespread infectious diseases. Data obtained from the DOC indicate that the average annual cost to house an inmate in a State prison facility during FY 2019 totaled \$50,191. However, this total savings would not be

realized unless the population declines by a number large enough for the DOC to lower bed space capacity and reduce its fixed costs. Savings to be generated by a small number of inmates released early from State prison and not reducing bed spaces would total \$8.60 per day or \$2,064 for a maximum credit of eight months per inmate in marginal costs, for food, wages and clothing.

The State may receive revenue from additional fines and penalties imposed on individuals convicted of the new crime. An inmate or juvenile who purposely or knowingly violates a “no contact” order is guilty of a crime of the fourth degree. A crime of the fourth degree is punishable by imprisonment of up to 18 months, a fine of up to \$10,000, or both. However, it is not possible to forecast the number of offenders likely to violate the “no contact” order. The OLS also notes that many fines go unpaid because of the financial condition of the offenders.

Section: Judiciary

*Analyst: Anuja Pande Joshi
Assistant Research Analyst*

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

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

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

LEGISLATIVE FISCAL ESTIMATE

[Third Reprint]

SENATE, No. 2519 STATE OF NEW JERSEY 219th LEGISLATURE

DATED: SEPTEMBER 23, 2020

SUMMARY

- Synopsis:** Requires public health emergency credits to be awarded to certain inmates and parolees during public health emergency; prohibits contact with victim upon release of inmate awarded credits.
- Type of Impact:** Periodic State expenditure decrease; potential periodic State expenditure increase.
- Agencies Affected:** Department of Corrections, State Parole Board, Juvenile Justice Commission.

Office of Legislative Services Estimate

Fiscal Impact	
Periodic State Cost Decrease	Indeterminate
Potential Periodic State Cost Increase	Indeterminate

- The Office of Legislative Services (OLS) concludes that accelerating the release date of certain inmates and juvenile offenders and reducing the parole term of certain parolees by up to eight months by awarding them public health emergency credits could lower the operating expenditures of the Department of Corrections (DOC), the State Parole Board (SPB), and the Juvenile Justice Commission (JJC) during times when a public health emergency is declared. However, the OLS is unable to quantify the savings from housing an offender or supervising parolees for a reduced period of time due to lack of sufficient data.
- The OLS lacks sufficient information to quantify the overall fiscal impact as it is unclear as to how many offenders and parolees would be impacted by the provisions of this bill, and the frequency of such widespread infectious diseases resulting in a public health emergency cannot be accurately forecast. In general, however, the bill should result in lower State operating expenses during times when a public health emergency is declared.
- The OLS concurs with the DOC that the State may incur some cost for COVID-19 testing under the provisions of the bill. However, the OLS is unable to project the number of inmates who would be eligible for early release and need testing.

BILL DESCRIPTION

The bill requires public health emergency credits to be awarded to certain inmates, juveniles, and parolees during a public health emergency declared by the Governor to provide remission of time from an inmate's or juvenile's sentence, and a parolee's term of parole. The bill also prohibits contact with any identifiable victim following the release of an inmate or juvenile awarded credits, and requires certain reentry information to be provided prior to release.

The bill provides for public health emergency credits to be awarded to an inmate in the custody of the DOC or a juvenile in the custody of the JJC who is scheduled to be released from custody within one year. The credits are to be awarded if a public health emergency is declared by the Governor in response to a communicable or infectious disease, and results in substantial modification to department-wide correctional facility operations. The credits would reduce the inmate or juvenile's sentence at the rate of four months for each month, or portion of each month, served during the declared emergency, with a maximum of eight months of remission to be awarded for any declared emergency period. The bill also provides that an award of public health emergency credits is not to limit or affect an inmate's eligibility for parole consideration. Public health emergency credits are not to be awarded to an inmate or juvenile who has been deemed a repetitive, compulsive sex offender.

Under the bill, an inmate or juvenile who is released following an award of credits is prohibited from making contact with any victim of the crime for which the inmate or juvenile was serving a sentence. This contact prohibition is to remain in force from the date the inmate or juvenile is released until the date the inmate or juvenile was scheduled to be released from custody prior to the award of credits. Specifically, the bill would prohibit any contact, either personally or through an agent, that includes personal, written, electronic, or telephone contact with the victim, or entering the victim's residence, property, school, or place of employment.

The court is required to establish procedures for filing a petition to dissolve the contact prohibition. An inmate or juvenile who purposely or knowingly violates the contact prohibition is guilty of a crime of the fourth degree, which is punishable by a term of imprisonment of up to 18 months, a fine of up to \$10,000 or both.

The DOC is required under the bill to provide inmates, prior to release, with information concerning reentry organizations and programs. The DOC also is required, within 30 days prior to releasing an inmate following an award of credits, to provide any available information related to the inmate's eligibility for Medicaid, housing information, identification information, and eligibility for any other benefits and services. Subject to the availability of DOC testing resources, the DOC is required to test an inmate for COVID-19 prior to release following an award of public health emergency credits if the inmate is released during the Public Health Emergency and State of Emergency declared by the Governor in Executive Order 103 of 2020 concerning the coronavirus disease 2019 pandemic.

The provisions of the bill also require the DOC or JJC, as appropriate, to notify the appropriate court and the prosecutor of the county in which the inmate was convicted or the Attorney General if the matter was prosecuted by the Attorney General of: the name of any inmate or juvenile who is scheduled to be released from custody within 12 months as a result of the award of credits; the date the inmate or juvenile is scheduled to be released; and the date the inmate or juvenile was scheduled to be released prior to the award of credits.

Information concerning the procedures for filing an application for a domestic violence restraining order, resources for victims of domestic violence, and the procedures for filing a petition to dissolve the contact prohibition established under the bill are to be made available in both English and Spanish on the DOC, JJC, and Department of Law and Public Safety websites.

The prosecutor or Attorney General is required, not less than five days prior to the scheduled release date, to use any reasonable means available to notify an identifiable victim of: the crime for which the inmate or juvenile is serving a sentence of the inmate's or juvenile's scheduled release date, the law prohibiting the inmate or juvenile from having any contact the victim, the date the contact prohibition will expire, the penalties imposed for a violation; information concerning the procedures for filing an application to dissolve the contact prohibition, the procedures for filing an application for a domestic violence restraining order, and resources for victims of domestic violence.

The provisions of the bill also require public health emergency credits to be awarded to a parolee whose term expires within one year if a public health emergency is declared by the Governor that arises as a result of a communicable or infectious disease. The credits would reduce the parolee's term of supervision at the rate of four months for each month, or portion of each month, of the parolee's term served during the declared emergency, with a maximum of eight months of remission awarded for any declared emergency period.

A parolee who has been sentenced to a special sentence of community supervision for life or parole supervision for life, or a parole for a whom a warrant has been issued or parole revocation proceedings have been initiated, is ineligible to receive credits under the bill. The bill further clarifies that the award of public health emergency credits are not to interfere with the award of compliance credits to be awarded to a parolee under current law. Likewise, an award of compliance credits is not to interfere with the award of public health emergency credits under the bill.

FISCAL ANALYSIS

EXECUTIVE BRANCH

The OLS has not received a formal fiscal note on this bill. However, upon request, the DOC has indicated to the OLS that the bill may have some fiscal impact with regard to the provision on COVID-19 testing. The DOC notes that the cost of one COVID-19 test kit is currently \$65.00. However, the DOC has been advised that as of September 1, 2020 the cost will be increased to \$81.25. The DOC estimates an additional salary cost for staff to administer the test. The DOC estimates that at least one staff member, at a cost of \$40/hour, and one supervisor, at a cost of \$43.86/hour, will be needed to administer the COVID-19 inmate testing. DOC estimates that staff can complete about ten tests of inmates for COVID-19 per hour.

OFFICE OF LEGISLATIVE SERVICES

The OLS concludes that accelerating the release date of certain inmates and juvenile offenders and reducing the parole term of certain parolees by up to eight months by awarding them public health emergency credits could lower the operating expenditures of the DOC, the JJC, and the SPB during times when a public health emergency is declared. However, the OLS is unable to quantify the likely reduction in housing costs due to lack of sufficient information and the unpredictability of the frequency of such widespread infectious diseases. Data obtained from the DOC indicate that the average annual cost to house an inmate in a State prison facility during FY 2019 totaled \$50,191. However, this total savings would not be realized unless the population declines by a number large enough for the DOC to lower bed space capacity and reduce its fixed costs. Savings to be generated by a small number of inmates released early from State prison and not reducing

bed spaces would total \$8.60 per day or \$2,064 for a maximum credit of eight months per inmate in marginal costs for food, wages and clothing.

The State may receive revenue from additional fines and penalties imposed on individuals convicted of the new crime established by the bill. An inmate or juvenile who purposely or knowingly violates a “no contact” statutory prohibition is guilty of a crime of the fourth degree. A crime of the fourth degree is punishable by imprisonment of up to 18 months, a fine of up to \$10,000, or both. However, it is not possible to forecast the number of offenders likely to violate the “no contact” order. The OLS also notes that many fines go unpaid because of the financial condition of the offenders.

The OLS concurs with the DOC that the State may incur some cost for COVID-19 testing. Under the provisions of the bill and subject to the availability of DOC testing resources, the DOC is required to test an inmate for COVID-19 prior to release following an award of public health emergency credits. The OLS is unable to project the number of inmates who would need testing due to early release from public health emergency credits during the current pandemic or what kind of testing would be needed in the future in case of a pandemic.

The DOC may also see an increased administrative cost as the bill requires the DOC to provide inmates, prior to release, with information concerning reentry organizations and programs. Within 30 days prior to releasing an inmate following an award of credits, the DOC is required to provide any available information related to the inmate’s eligibility for Medicaid, housing information, identification information, and eligibility for any other benefits and services.

Section: Judiciary

*Analyst: Anuja Pande Joshi
Assistant Research Analyst*

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

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

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

LEGISLATIVE FISCAL ESTIMATE

[Fourth Reprint]

SENATE, No. 2519

STATE OF NEW JERSEY 219th LEGISLATURE

DATED: SEPTEMBER 28, 2020

SUMMARY

- Synopsis:** Requires public health emergency credits to be awarded to certain inmates and parolees during public health emergency; prohibits contact with victim upon release of inmate awarded credits.
- Type of Impact:** Periodic State expenditure decrease; potential periodic State expenditure increase
- Agencies Affected:** Department of Corrections, State Parole Board, Juvenile Justice Commission.

Office of Legislative Services Estimate

Fiscal Impact	
Periodic State Cost Decrease	Indeterminate
Potential Periodic State Cost Increase	Indeterminate

- The Office of Legislative Services (OLS) concludes that accelerating the release date of certain inmates and juvenile offenders and reducing the parole term of certain parolees by up to eight months by awarding them public health emergency credits could lower the operating expenditures of the Department of Corrections (DOC), the State Parole Board (SPB), and the Juvenile Justice Commission (JJC) during times when a public health emergency is declared. However, the OLS is unable to quantify the savings from housing an offender or supervising parolees for a reduced period of time due to lack of sufficient data.
- The OLS lacks sufficient information to quantify the overall fiscal impact as it is unclear as to how many offenders and parolees would be impacted by the provisions of this bill, and the frequency of such widespread infectious diseases resulting in a public health emergency cannot be accurately forecast. In general, however, the bill should result in lower State operating expenses during times when a public health emergency is declared.
- The OLS concurs with the DOC that the State may incur some cost for COVID-19 testing under the provisions of the bill. However, the OLS is unable to project the number of inmates who would be eligible for early release and need testing.

BILL DESCRIPTION

The bill requires public health emergency credits to be awarded to certain inmates, juveniles, and parolees during a public health emergency declared by the Governor to provide remission of time from an inmate's or juvenile's sentence, and a parolee's term of parole. The bill also prohibits contact with any identifiable victim following the release of an inmate or juvenile awarded credits, and requires certain reentry information to be provided prior to release.

The bill provides for public health emergency credits to be awarded to an inmate in the custody of the DOC or a juvenile in the custody of the JJC who is scheduled to be released from custody within one year. The credits are to be awarded if a public health emergency is declared by the Governor in response to a communicable or infectious disease, and results in substantial modification to department-wide correctional facility operations. The credits would reduce the inmate or juvenile's sentence at the rate of four months for each month, or portion of each month, served during the declared emergency, with a maximum of eight months of remission to be awarded for any declared emergency period. The bill also provides that an award of public health emergency credits is not to limit or affect an inmate's eligibility for parole consideration. Public health emergency credits would not be awarded to any inmate or juvenile who is serving a sentence for murder, aggravated sexual assault, or who has been deemed a repetitive, compulsive sex offender.

Under the bill, an inmate or juvenile who is released following an award of credits is prohibited from making contact with any victim of the crime for which the inmate or juvenile was serving a sentence. This contact prohibition is to remain in force from the date the inmate or juvenile is released until the date the inmate or juvenile was scheduled to be released from custody prior to the award of credits. Specifically, the bill would prohibit any contact, either personally or through an agent, that includes personal, written, electronic, or telephone contact with the victim, or entering the victim's residence, property, school, or place of employment.

The court is required to establish procedures for filing a petition to dissolve the contact prohibition. An inmate or juvenile who purposely or knowingly violates the contact prohibition is guilty of a crime of the fourth degree, which is punishable by a term of imprisonment of up to 18 months, a fine of up to \$10,000 or both.

The DOC is required under the bill to provide inmates, prior to release, with information concerning reentry organizations and programs. The DOC also is required, within 30 days prior to releasing an inmate following an award of credits, to provide any available information related to the inmate's eligibility for Medicaid, housing information, identification information, and eligibility for any other benefits and services. Subject to the availability of DOC testing resources, the DOC is required to test an inmate for COVID-19 prior to release following an award of public health emergency credits if the inmate is released during the Public Health Emergency and State of Emergency declared by the Governor in Executive Order 103 of 2020 concerning the coronavirus disease 2019 pandemic.

The provisions of the bill also require the DOC or JJC, as appropriate, to notify the appropriate court and the prosecutor of the county in which the inmate was convicted or the Attorney General if the matter was prosecuted by the Attorney General of: the name of any inmate or juvenile who is scheduled to be released from custody within 12 months as a result of the award of credits; the date the inmate or juvenile is scheduled to be released; and the date the inmate or juvenile was scheduled to be released prior to the award of credits.

Information concerning the procedures for filing an application for a domestic violence restraining order, resources for victims of domestic violence, and the procedures for filing a petition to dissolve the contact prohibition established under the bill are to be made available in both English and Spanish on the DOC, JJC, and Department of Law and Public Safety websites.

The prosecutor or Attorney General is required, not less than five days prior to the scheduled release date, to use any reasonable means available to notify an identifiable victim of: the crime for which the inmate or juvenile is serving a sentence of the inmate's or juvenile's scheduled release date, the law prohibiting the inmate or juvenile from having any contact the victim, the date the contact prohibition will expire, the penalties imposed for a violation; information concerning the procedures for filing an application to dissolve the contact prohibition, the procedures for filing an application for a domestic violence restraining order, and resources for victims of domestic violence.

The provisions of the bill also require public health emergency credits to be awarded to a parolee whose term expires within one year if a public health emergency is declared by the Governor that arises as a result of a communicable or infectious disease. The credits would reduce the parolee's term of supervision at the rate of four months for each month, or portion of each month, of the parolee's term served during the declared emergency, with a maximum of eight months of remission awarded for any declared emergency period.

A parolee who has been sentenced to a special sentence of community supervision for life or parole supervision for life, or a parole for a whom a warrant has been issued or parole revocation proceedings have been initiated, is ineligible to receive credits under the bill. The bill further clarifies that the award of public health emergency credits are not to interfere with the award of compliance credits to be awarded to a parolee under current law. Likewise, an award of compliance credits is not to interfere with the award of public health emergency credits under the bill.

FISCAL ANALYSIS

EXECUTIVE BRANCH

The OLS has not received a formal fiscal note on this bill. However, upon request, the DOC has indicated to the OLS that the bill may have some fiscal impact with regard to the provision on COVID-19 testing. The DOC notes that the cost of one COVID-19 test kit is currently \$65.00. However, the DOC has been advised that as of September 1, 2020 the cost will be increased to \$81.25. The DOC estimates an additional salary cost for staff to administer the test. The DOC estimates that at least one staff member, at a cost of \$40/hour, and one supervisor, at a cost of \$43.86/hour, will be needed to administer the COVID-19 inmate testing. DOC estimates that staff can complete about ten tests of inmates for COVID-19 per hour.

OFFICE OF LEGISLATIVE SERVICES

The OLS concludes that accelerating the release date of certain inmates and juvenile offenders and reducing the parole term of certain parolees by up to eight months by awarding them public health emergency credits could lower the operating expenditures of the DOC, the JJC, and the SPB during times when a public health emergency is declared. However, the OLS is unable to quantify the likely reduction in housing costs due to lack of sufficient information and the unpredictability of the frequency of such widespread infectious diseases. Data obtained from the DOC indicate that the average annual cost to house an inmate in a State prison facility during FY 2019 totaled \$50,191. However, this total savings would not be realized unless the population declines by a number large enough for the DOC to lower bed space capacity and reduce its fixed costs. Savings to be generated by a small number of inmates released early from State prison and not reducing

bed spaces would total \$8.60 per day or \$2,064 for a maximum credit of eight months per inmate in marginal costs for food, wages and clothing.

The State may receive revenue from additional fines and penalties imposed on individuals convicted of the new crime established by the bill. An inmate or juvenile who purposely or knowingly violates a “no contact” order is guilty of a crime of the fourth degree. A crime of the fourth degree is punishable by imprisonment of up to 18 months, a fine of up to \$10,000, or both. However, it is not possible to forecast the number of offenders likely to violate the “no contact” order. The OLS also notes that many fines go unpaid because of the financial condition of the offenders.

The OLS concurs with the DOC that the State may incur some cost for COVID-19 testing. Under the provisions of the bill and subject to the availability of DOC testing resources, the DOC is required to test an inmate for COVID-19 prior to release following an award of public health emergency credits. The OLS is unable to project the number of inmates who would need testing due to early release from public health emergency credits during the current pandemic or what kind of testing would be needed in the future in case of a pandemic.

Section: Judiciary

*Analyst: Anuja Pande Joshi
Assistant Research Analyst*

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

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

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

ASSEMBLY, No. 4235

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED JUNE 8, 2020

Sponsored by:

Assemblyman RAJ MUKHERJI

District 33 (Hudson)

Assemblywoman SHAVONDA E. SUMTER

District 35 (Bergen and Passaic)

Assemblywoman VERLINA REYNOLDS-JACKSON

District 15 (Hunterdon and Mercer)

Co-Sponsored by:

**Assemblymen Johnson, Zwicker, Assemblywomen Murphy, Chaparro,
Assemblyman Spearman, Assemblywomen Carter, Jasey, Assemblyman
Giblin and Assemblywoman McKnight**

SYNOPSIS

Requires public health emergency credits to be awarded to certain inmates during public health emergency declared by Governor.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 7/20/2020)

1 AN ACT concerning public health emergency credits, amending
2 N.J.S.2C:47-3, and supplementing Title 30 of the Revised
3 Statutes and P.L.1993, c.133 (C.2A:4A-44).

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

7
8 1. (New section) a. In addition to credits awarded pursuant
9 to R.S.30:4-92; section 3 of P.L.2009, c.330 (C.30:4-92a); and
10 R.S.30:4-140, whenever a public health emergency, pursuant to the
11 "Emergency Health Powers Act," P.L.2005, c.222 (C.26:13-1 et
12 seq.), has been declared by the Governor and is in effect, the
13 commissioner also shall award inmates public health emergency
14 credits in accordance with this section if the public health
15 emergency:

16 (1) arises as a result of a communicable or infectious disease;
17 and

18 (2) results in the modification of correctional facility operations.

19 b. Except as provided in subsection c. of this section, public
20 health emergency credits shall be awarded to any inmate in the
21 custody of the Department of Corrections who is serving a sentence
22 or receiving jail credits applicable to the sentence. The credits shall
23 provide further remission from both the maximum and minimum
24 term of the inmate's sentence at the rate of six months for each
25 month, or portion thereof, served during the declared emergency.
26 An inmate shall not be awarded public health emergency credits in
27 excess of 12 months of remission for any declared emergency.

28 c. Public health emergency credits shall not be awarded to an
29 inmate whose conduct was characterized by a pattern of repetitive,
30 compulsive behavior pursuant to N.J.S.2C:47-3.

31 d. Nothing in this section shall be deemed to limit or affect an
32 inmate's eligibility for parole consideration as provided for in
33 section 10 of P.L.1948, c.84 (C.30:4-123.1 et seq.).

34
35 2. N.J.S.2C:47-3 is amended to read as follows:

36 2C:47-3. Disposition.

37 a. If the report of the examination reveals that the offender's
38 conduct was characterized by a pattern of repetitive, compulsive
39 behavior and further reveals that the offender is amenable to sex
40 offender treatment and is willing to participate in such treatment,
41 the court shall determine whether the offender's conduct was so
42 characterized and whether the offender is amenable to sex offender
43 treatment and is willing to participate in such treatment and shall
44 record its findings on the judgment of conviction.

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

Matter underlined thus is new matter.

1 b. If the court finds that the offender's conduct was
2 characterized by a pattern of repetitive, compulsive behavior and
3 that the offender is amenable to sex offender treatment and is
4 willing to participate in such treatment, the court shall, upon the
5 recommendation of the Department of Corrections, sentence the
6 offender to a term of incarceration to be served in the custody of the
7 commissioner at the Adult Diagnostic and Treatment Center for sex
8 offender treatment as provided in subsection h. of this section, or
9 place the offender on probation with the requirement, as a condition
10 of probation, that he receive outpatient psychological or psychiatric
11 treatment as prescribed.

12 c. A sentence of incarceration or probation imposed pursuant to
13 subsection b. or f. of this section shall be set in accordance with
14 chapters 43, 44 and 45 of this Title.

15 d. The court shall impose sentence in accordance with chapters
16 43, 44 and 45 of this Title and not as provided in subsection b. of
17 this section if it shall appear from the report of the examination
18 made of the offender pursuant to section N.J.S.2C:47-1 that the
19 offender's conduct was not characterized by a pattern of repetitive,
20 compulsive behavior or that the offender is not amenable to sex
21 offender treatment. Notwithstanding the provisions of R.S.30:4-140
22 or R.S.30:4-92 or any other law, a sentence imposed pursuant to
23 this subsection on an offender who is not amenable to sex offender
24 treatment shall not be reduced by commutation time for good
25 behavior or credits for diligent application to work and other
26 institutional assignments.

27 e. (Deleted by amendment, P.L.1998, c.72).

28 f. If the court finds that the offender's conduct was
29 characterized by a pattern of repetitive, compulsive behavior and
30 that the offender is amenable to sex offender treatment, but that the
31 offender is not willing to participate in such treatment, the court
32 shall sentence the offender to a term of incarceration to be served in
33 a facility designated by the commissioner pursuant to section 2 of
34 P.L.1969, c.22 (C.30:4-91.2). The offender shall become primarily
35 eligible for parole in accordance with the provisions of
36 N.J.S.2C:47-5; provided, however, no offender shall become
37 primarily eligible for parole prior to the expiration of any judicial or
38 statutory mandatory minimum term. An offender who meets the
39 criteria of this subsection may, on a biennial basis, request to be
40 transferred to the Adult Diagnostic and Treatment Center. Within
41 90 days after receiving a request for a transfer, the Department of
42 Corrections shall conduct a psychological examination. If, upon the
43 completion of a psychological examination, the Department of
44 Corrections determines that the offender is amenable to sex
45 offender treatment and is willing to participate in such treatment,
46 the commissioner may order the offender to be transferred to the
47 Adult Diagnostic and Treatment Center.

1 g. Notwithstanding the provisions of R.S.30:4-140 **[or]** ,
2 R.S.30:4-92, section 1 of P.L. c. (C.) (pending before the
3 Legislature as this bill), or any other law, a sentence imposed
4 pursuant to subsection f. of this section shall not be reduced by
5 commutation time for good behavior or credits for diligent
6 application to work and other institutional assignments for any year
7 or fractional part of a year that the offender is confined in a facility
8 other than the Adult Diagnostic and Treatment Center; provided,
9 however, if the offender is at any time transferred to the Adult
10 Diagnostic and Treatment Center pursuant to subsection f. of this
11 section, the sentence imposed on the offender shall be reduced by
12 commutation time for good behavior and credits for diligent
13 application to work and other institutional assignments for any year
14 or fractional part of a year that the offender is incarcerated at the
15 Adult Diagnostic and Treatment Center following the date of such
16 transfer.

17 h. An offender sentenced to a term of incarceration pursuant to
18 subsection b. of this section shall be confined as follows:

19 (1) If the court imposes a sentence of seven years or less, the
20 Department of Corrections shall confine the offender to the Adult
21 Diagnostic and Treatment Center as soon as practicable after the
22 date of sentence.

23 (2) If the court imposes a sentence of more than seven years, the
24 Department of Corrections shall confine the offender in a facility
25 designated by the commissioner pursuant to section 2 of
26 P.L.1969, c.22 (C.30:4-91.2). At least 30 days prior to the date
27 which precedes the expiration date of the offender's sentence by
28 five years, including any reductions for commutation time for good
29 behavior and credits for diligent application to work and other
30 institutional assignments, the Department of Corrections shall
31 complete a psychological examination of the offender to determine
32 the offender's amenability to sex offender treatment and willingness
33 to participate in such treatment; provided, however, no such
34 examination shall be required if less than two years has elapsed
35 since the Department of Corrections completed a psychological
36 examination pursuant to N.J.S.2C:47-1. If the report of the
37 examination reveals that the offender is amenable to sex offender
38 treatment and is willing to participate in such treatment, the
39 offender shall be transferred to the Adult Diagnostic and Treatment
40 Center as soon as practicable. If the report of the examination
41 reveals that the offender is not amenable to sex offender treatment,
42 the offender shall not be transferred to the Adult Diagnostic and
43 Treatment Center. If the report of the examination reveals that the
44 offender is amenable to sex offender treatment but is not willing to
45 participate in such treatment, the offender shall not be transferred to
46 the Adult Diagnostic and Treatment Center. An offender may, on a
47 biennial basis, request to be transferred to the Adult Diagnostic and
48 Treatment Center. Within 90 days after receiving a request for a

1 transfer, the Department of Corrections shall conduct a
2 psychological examination. If, upon the completion of a
3 psychological examination, the Department of Corrections
4 determines that the offender is amenable to sex offender treatment
5 and is willing to participate in such treatment, the commissioner
6 shall order the offender to be transferred to the Adult Diagnostic
7 and Treatment Center as soon as practicable.

8 (3) If a sentence is imposed pursuant to section 2 of
9 P.L.1997, c.117 (C.2C:43-7.2) or if any other judicial or statutory
10 mandatory minimum term of more than seven years is imposed, the
11 offender shall be confined in a facility designated by the
12 commissioner pursuant to section 2 of P.L.1969, c.22 (C.30:4-91.2).
13 At least 30 days prior to the date which precedes the expiration date
14 of the mandatory minimum term by five years, the Department of
15 Corrections shall complete a psychological examination of the
16 offender to determine the offender's amenability to sex offender
17 treatment and willingness to participate in such treatment; provided,
18 however, no such examination shall be required if less than two
19 years has elapsed since the Department of Corrections completed a
20 psychological examination pursuant to N.J.S.2C:47-1. If the report
21 of the examination reveals that the offender is amenable to sex
22 offender treatment and is willing to participate in such treatment,
23 the offender shall be transferred to the Adult Diagnostic and
24 Treatment Center as soon as practicable. If the report of the
25 examination reveals that the offender is not amenable to sex
26 offender treatment, the offender shall not be transferred to the Adult
27 Diagnostic and Treatment Center. If the report of the examination
28 reveals that the offender is amenable to sex offender treatment, but
29 is not willing to participate in such treatment, the offender shall not
30 be transferred to the Adult Diagnostic and Treatment Center. An
31 offender may, on a biennial basis, request to be transferred to the
32 Adult Diagnostic and Treatment Center. Within 90 days after
33 receiving a request for a transfer, the Department of Corrections
34 shall conduct a psychological examination. If upon completion of a
35 psychological examination the Department of Corrections
36 determines that the offender is amenable to sex offender treatment
37 and is willing to participate in such treatment, the commissioner
38 shall order the offender to be transferred to the Adult Diagnostic
39 and Treatment Center as soon as practicable.

40 i. Notwithstanding the provisions of R.S. 30:4-140 or R.S.
41 30:4-92 or any other law, a sentence imposed pursuant to subsection
42 b. of this section shall not be reduced by commutation time for good
43 behavior or credits for diligent application to work and other
44 institutional assignments for any year or fractional part of a year
45 from the date the Department of Corrections determines, as a result
46 of a psychological evaluation conducted pursuant to paragraph (2)
47 or (3) of subsection h. of this section, that the offender is not
48 amenable to sex offender treatment or not willing to participate in

1 such treatment; provided, however, if the offender is subsequently
2 determined by the Department of Corrections to be amenable to sex
3 offender treatment and willing to participate in such treatment and
4 is transferred to the Adult Diagnostic and Treatment Center, the
5 sentence imposed on the offender shall be reduced by commutation
6 time for good behavior and credits for diligent application to work
7 and other institutional assignments for any year or fractional part of
8 a year that the offender is incarcerated at the Adult Diagnostic and
9 Treatment Center following the date of such transfer.

10 j. An offender who is sentenced to a term of life imprisonment
11 without eligibility for parole shall not be confined in the Adult
12 Diagnostic and Treatment Center but shall be confined in a facility
13 designated by the commissioner pursuant to section 2 of
14 P.L. 1969, c.22 (C.30:4-91.2).

15 k. The commissioner shall be required to provide for the
16 treatment of a sex offender sentenced pursuant to N.J.S.2C:47-1 et
17 seq. only when the offender is incarcerated in the Adult Diagnostic
18 and Treatment Center. This requirement shall not apply when the
19 offender is incarcerated in another facility.
20 (cf: P.L.1998, c.72, s.3)

21
22 3. (New section) a. Except as provided in subsection b. of
23 this section, the procedures and standards for the award of credits
24 set forth in R.S.30:4-92; section 3 of P.L.2009, c.330 (C.30:4-92a);
25 section 1 of P.L. c. (C.) (pending before the Legislature as
26 this bill); and R.S.30:4-140 shall apply to any juvenile serving a
27 sentence in a State correctional facility operated by the Juvenile
28 Justice Commission.

29 b. Public health emergency credits shall not be awarded to any
30 juvenile who is deemed a repetitive, compulsive sex offender.

31
32 4. This act shall take effect immediately.

33
34

35 STATEMENT

36
37 This bill requires public health emergency credits to be awarded
38 to certain inmates during a public health emergency declared by the
39 Governor in order to provide remission of time from their
40 sentences.

41 The COVID-19 death rate of inmates in New Jersey is the
42 highest in the country. While the State of New Jersey has been
43 severely impacted by the COVID-19 pandemic, inmates in this
44 State have been afflicted at a particularly alarming rate, as the
45 inability of inmates to quarantine or practice social distancing
46 creates a higher risk to their lives. In providing a method to award
47 these credits, it is the sponsor's intent to expedite the release of
48 certain inmates who are approaching the end of their sentences in

1 order to reduce the risk of harm to inmates and correctional facility
2 staff, while simultaneously protecting the public safety.

3 This bill provides for public health emergency credits to be
4 awarded to certain inmates in the event a public health emergency is
5 declared by the Governor that arises as a result of a communicable
6 or infectious disease, and results in the modification of correctional
7 facility operations.

8 Under the bill, public health emergency credits are to be awarded
9 to any inmate in the custody of the Department of Corrections who
10 is serving a sentence or receiving jail credits applicable to the
11 sentence. The credits would provide further remission from both the
12 maximum and minimum term of the inmate's sentence at the rate of
13 six months for each month, or portion of each month, served during
14 the declared emergency with a maximum of 12 months of remission
15 to be awarded for any declared emergency period. The award of
16 public health emergency credits is not to limit or affect an inmate's
17 eligibility for parole consideration.

18 Public health emergency credits are not to be awarded under the
19 bill to an inmate who has been deemed a repetitive, compulsive sex
20 offender.

21 The bill also provides that juvenile offenders, other than those
22 deemed to be repetitive, compulsive sex offenders, are eligible to
23 receive public health emergency credits. The bill further provides
24 that these juveniles are eligible to receive other credits provided
25 under current law.

ASSEMBLY JUDICIARY COMMITTEE

STATEMENT TO

ASSEMBLY, No. 4235

with committee amendments

STATE OF NEW JERSEY

DATED: JULY 20, 2020

The Assembly Judiciary Committee reports favorably and with committee amendments Assembly Bill No. 4235.

As amended and reported by the committee, Assembly Bill No. 4235 requires public health emergency credits to be awarded to certain inmates during a public health emergency declared by the Governor. The credits would provide remission of time from the inmates' sentences. The bill also requires notice to any identifiable victim that an inmate who was awarded credits will be released, and requires the entry of a "no contact" order prohibiting the inmate from having contact with an identifiable victim under certain circumstances.

The COVID-19 death rate of inmates in New Jersey is the highest in the country. While the State of New Jersey has been severely impacted by the COVID-19 pandemic, inmates in this State have been afflicted at a particularly alarming rate, as the inability of inmates to quarantine or practice social distancing creates a higher risk to their lives. In providing a method to award these credits, it is the sponsor's intent to expedite the release of certain inmates who are approaching the end of their sentences in order to reduce the risk of harm to inmates and correctional facility staff, while simultaneously protecting the public safety.

This bill provides for public health emergency credits to be awarded to certain inmates in the event a public health emergency is declared by the Governor that arises as a result of a communicable or infectious disease, and results in the modification of correctional facility operations.

Under the bill, public health emergency credits are to be awarded to any inmate in the custody of the Department of Corrections (DOC) who is serving a sentence or receiving jail credits applicable to the sentence. The credits would provide further remission from both the maximum and minimum term of the inmate's sentence at the rate of four months for each month, or portion of each month, served during the declared emergency with a maximum of eight months of remission to be awarded for any declared emergency period. The award of public health emergency credits is not to limit or affect an inmate's eligibility for parole consideration.

Public health emergency credits are not to be awarded under the bill to an inmate who has been deemed a repetitive, compulsive sex offender. The bill also provides that juvenile offenders, other than those deemed to be repetitive, compulsive sex offenders, are eligible to receive public health emergency credits.

Under the amended bill, the Commissioner of Corrections or Executive Director of the Juvenile Justice Commission, as appropriate, is to notify the appropriate court and the prosecutor of the county in which the inmate was convicted or the Attorney General if the matter was prosecuted by the Attorney General of:

- the name of any inmate or juvenile who is scheduled to be released from custody within 12 months as a result of the award of credits;
- the date the inmate or juvenile is scheduled to be released; and
- the date the inmate or juvenile was scheduled to be released prior to the award of credits.

Information concerning the procedures for filing an application for a domestic violence final restraining order, resources for victims of domestic violence; and the procedures for filing a petition to dissolve a “no contact” order entered under the bill are to be made available on the DOC, Juvenile Justice Commission (JJC), and the Department of Law and Public Safety websites.

The prosecutor or Attorney General is required, not less than five days prior to the inmate or juvenile’s scheduled release date to:

- use any reasonable means available to notify any identifiable victim of the crime for which the inmate or juvenile is incarcerated of the scheduled release date; that a “no contact” order will be entered prohibiting the inmate or juvenile from having any contact with the victim, unless the victim requests that an order not be entered; the date that the order, if entered, will expire; and the penalties imposed for a violation; and
- provide information to the victim concerning how to dissolve a “no contact” order, the procedures for filing an application for a domestic violence final restraining order, and resources for victims of domestic violence.

The prosecutor or Attorney General is required to immediately notify the court and either the DOC or JJC of whether an order prohibiting the inmate from having any contact with the victim is to be entered, based on the prosecutor’s contact with the victim or inability to contact the victim.

The court is to enter an order prohibiting the inmate from having any contact with an identifiable victim if the prosecutor notifies the court that an identifiable victim does not oppose the entry of an order or the prosecutor was unable to contact the victim. Any order entered under the bill is to expire on the date that the inmate was scheduled to be released prior to the award of public health emergency credits. The court is to provide a copy of the order to the DOC or JJC, which is to

provide a copy of the order to the inmate or juvenile upon to release. An inmate or juvenile who purposely or knowingly violates a “no contact” order is guilty of a crime of the fourth degree. As crime of the fourth degree is punishable by imprisonment of up to 18 months, a fine of up to \$10,000, or both.

COMMITTEE AMENDMENTS

The committee amended the bill to:

(1) provide that only an inmate or juvenile who is to be released from custody within 12 months is eligible to receive public health emergency credits;

(2) reduce the award of credits from six months for each month served during an declared emergency to four months, and reduce the maximum award of credits from 12 months to eight months;

(3) provide that an inmate who was in the custody of the DOC or JJC during the coronavirus disease 2019 pandemic is to receive public health emergency credits;

(4) provide that an inmate or juvenile scheduled to be released from custody following an award of credits is to be released on the scheduled release date, except that an inmate or juvenile who is scheduled to be released on or within five days following the effective date of the bill is to be released either on the date of the entry of a “no contact” order or the date the prosecutor notifies the court that no order is to be entered, whichever occurs sooner; however, under no circumstances is the inmate to be released later than five days following the effective date of the bill;

(5) require the commissioner or executive director, as appropriate, to identify any inmate or juvenile to be released within 12 months from custody following an award of credits, and notify the appropriate court and prosecutor or Attorney General;

(6) establishes procedures for notifying any identifiable victim of the inmate’s release and entry of a “no contact” order;

(7) requires the entry of a “no contact” order prohibiting the inmate from having any contact with the victim, unless the victim objects to the entry of an order, which is to expire on the date the inmate was scheduled to be released prior to the award of credits;

(8) requires any order entered to be provided to the inmate or juvenile upon release;

(9) provide that an inmate or juvenile who purposely or knowingly violates a “no contact” order is guilty of a crime of the fourth degree; and

(10) establishes procedures for information to be provided to an identifiable victim and made publicly available on the DOC, JJC, and Department of Law and Public Safety websites concerning the filing of an application for a domestic violence final restraining order, resources for victims of domestic violence, and procedures for filing a petition to dissolve a “no contact” order.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

[Second Reprint]

ASSEMBLY, No. 4235

with committee amendments

STATE OF NEW JERSEY

DATED: AUGUST 24, 2020

The Assembly Appropriations Committee reports favorably Assembly Bill No. 4235 (2R), with committee amendments.

The amended bill requires public health emergency credits to be awarded to certain inmates, juveniles, and parolees during a public health emergency declared by the Governor to provide remission of time from an inmate's or juvenile's sentence, and a parolee's term of parole. The amended bill also prohibits contact with any identifiable victim following the release of an inmate or juvenile awarded credits, and requires certain reentry information to be provided prior to release.

The COVID-19 death rate of inmates in New Jersey is the highest in the country. Inmates in this State have been afflicted at a particularly alarming rate due to the inability to quarantine or practice social distancing. The provisions of this amended bill would expedite the release of certain inmates and juveniles who are approaching the end of their sentences to reduce the risk of harm to inmates, juveniles, and facility staff, while protecting the public safety.

The amended bill provides for public health emergency credits to be awarded to an inmate in the custody of the Department of Corrections (DOC) or a juvenile in the custody of the Juvenile Justice Commission (JJC) who is scheduled to be released from custody within one year. The credits are to be awarded if a public health emergency is declared by the Governor in response to a communicable or infectious disease, and results in substantial modification to department-wide correctional facility operations. The credits would reduce the inmate or juvenile's sentence at the rate of four months for each month, or portion of each month, served during the declared emergency, with a maximum of eight months of remission to be awarded for any declared emergency period. The bill also provides that an award of public health emergency credits is not to limit or affect an inmate's eligibility for parole consideration. Public health emergency credits are not to be awarded to an inmate or juvenile who has been deemed a repetitive, compulsive sex offender.

A juvenile who is awarded credits under the bill, and whose scheduled release date is less than 45 days following the effective date

of the bill, is to be released within 45 days after the effective date of the bill in order to enable the JJC to devise and implement a release plan for the juvenile and arrange for services to be provided to the juvenile upon release.

Under the bill, an inmate or juvenile who is released following an award of credits is prohibited from making contact with any victim of the crime for which the inmate or juvenile was serving a sentence. This contact prohibition is to remain in force from the date the inmate or juvenile is released until the date the inmate or juvenile was scheduled to be released from custody prior to the award of credits. Specifically, the amended bill would prohibit any contact, either personally or through an agent, that includes personal, written, electronic, or telephone contact with the victim, or entering the victim's residence, property, school, or place of employment.

The court is required to establish procedures for filing a petition to dissolve the contact prohibition. An inmate or juvenile who purposely or knowingly violates the contact prohibition is guilty of a crime of the fourth degree, which is punishable by a term of imprisonment of up to 18 months, a fine of up to \$10,000 or both.

Prior to releasing an inmate following an award of public health emergency credits, the DOC and JJC are required to notify the inmate or juvenile, as appropriate, in writing of the contact prohibition, and that a violation of the contact prohibition is a crime of the fourth degree. The DOC and JJC also are to require the inmate to acknowledge receipt, in writing, of the written notifications related to the contact prohibition provided under the amended bill.

The DOC is required under the bill to provide inmates, prior to release, with information concerning reentry organizations and programs. The DOC also is required, within 30 days prior to releasing an inmate following an award of credits, to provide any available information related to the inmate's eligibility for Medicaid, housing information, identification information, and eligibility for any other benefits and services. Subject to the availability of DOC testing resources, the DOC is required to test an inmate for COVID-19 prior to release following an award of public health emergency credits if the inmate is released during the Public Health Emergency and State of Emergency declared by the Governor in Executive Order 103 of 2020 concerning the coronavirus disease 2019 pandemic.

The provisions of the amended bill also require the DOC or JJC, as appropriate, to notify the appropriate court and the prosecutor of the county in which the inmate was convicted or the Attorney General if the matter was prosecuted by the Attorney General of: the name of any inmate or juvenile who is scheduled to be released from custody within 12 months as a result of the award of credits; the date the inmate or juvenile is scheduled to be released; and the date the inmate or juvenile was scheduled to be released prior to the award of credits.

Information concerning the procedures for filing an application for a domestic violence restraining order, resources for victims of domestic violence, and the procedures for filing a petition to dissolve the contact prohibition established under the bill are to be made available in both English and Spanish on the DOC, JJC, and Department of Law and Public Safety websites.

The prosecutor or Attorney General may, prior to the scheduled release date, use any reasonable means available to notify an identifiable victim of: the crime for which the inmate or juvenile is serving a sentence of the inmate's or juvenile's scheduled release date, the law prohibiting the inmate or juvenile from having any contact the victim, the date the contact prohibition will expire, the penalties imposed for a violation; information concerning the procedures for filing an application to dissolve the contact prohibition, the procedures for filing an application for a domestic violence restraining order, and resources for victims of domestic violence.

The provisions of the amended bill also require public health emergency credits to be awarded to a parolee whose term expires within one year if a public health emergency is declared by the Governor that arises as a result of a communicable or infectious disease. The credits would reduce the parolee's term of supervision at the rate of four months for each month, or portion of each month, of the parolee's term served during the declared emergency, with a maximum of eight months of remission awarded for any declared emergency period.

A parolee who has been sentenced to a special sentence of community supervision for life or parole supervision for life, or a parole for a whom a warrant has been issued or parole revocation proceedings have been initiated, is ineligible to receive credits under the amended bill. The amended bill further clarifies that the award of public health emergency credits are not to interfere with the award of compliance credits to be awarded to a parolee under current law. Likewise, an award of compliance credits is not to interfere with the award of public health emergency credits under the amended bill.

COMMITTEE AMENDMENTS

The committee amended the bill to:

(1) replace the requirement that the court enter a "no contact" order with a statutory prohibition to prohibit an inmate or juvenile from purposely or knowingly making contact with any victim of the crime for which the inmate or juvenile was serving a sentence;

(2) require the contact prohibition to be in force from the date of the inmate's or juvenile's release until the date the inmate or juvenile was scheduled to be released prior to the award of public health emergency credits;

(3) provide that prohibited contact with a victim, either personally or through an agent, includes but is not limited to: personal, written,

electronic, or telephone contact or communication; or entering the residence, property, school, or place of employment of the victim;

(4) provide that a violation of the statutory contact prohibition is a crime of the fourth degree;

(5) require the DOC and JJC to notify an inmate or juvenile, as appropriate, in writing of the prohibition against making contact with a victim and that a violation of the contact prohibition is a crime of the fourth degree; and require the inmate or juvenile to acknowledge in writing the receipt of the written notifications;

(6) require the DOC, prior to releasing an inmate following an award of credits, to compile and disseminate to inmates information concerning organizations and programs, whether faith-based or secular programs, which provide assistance and services to inmates reentering society after a period of incarceration;

(7) require the DOC, within 30 days prior to releasing an inmate following an award of credits, to provide any available information related to the inmate's Medicaid eligibility, housing and identification information, and eligibility for any other benefits and services;

(8) require the DOC, subject to the availability of testing resources, to test an inmate for COVID-19 prior to release from the custody following an award of credits if the inmate is released during the COVID-19 Public Health Emergency and State of Emergency declared in the Governor's Executive Order 103;

(9) require the court to establish procedures for filing a petition to dissolve the contact prohibition and provide the DOC, JJC, and Attorney General with information concerning the procedures for filing a petition to dissolve the contact prohibition;

(10) require the Attorney General or prosecutor to provide information to the victim concerning: procedures for filing a petition to dissolve the contact prohibition, procedures for filing an application for a domestic violence restraining order, rather than specifically a "final" domestic violence restraining order, and resources for victims of domestic violence;

(11) require the information to be made available on the DOC, JJC, and the Department of Law and Public Safety websites to include the procedures for filing a petition to dissolve the contact prohibition established under the bill;

(12) require public health emergency credits to be awarded to certain parolees in the event a public health emergency is declared by the Governor related to a communicable or infectious disease;

(13) provide that public health emergency credits are to be awarded to a parolee whose term expires within one year, and that the credits would reduce the parolee's term of supervision at the rate of four months for each month, or portion of each month, of the parolee's term served during the declared emergency with a maximum of eight months of remission to be awarded for any declared emergency period;

(14) provide that credits are not to be awarded to a parolee who has been sentenced to a special sentence of community supervision for life or parole supervision for life, or for a whom a warrant has been issued or parole revocation proceedings have been initiated; and

(15) clarify that the award of public health emergency credits are not to interfere with the award of parole compliance credits.

FISCAL IMPACT:

The OLS lacks sufficient information to quantify the overall fiscal impact as it is unclear as to how many offenders and parolees would be impacted by the provisions of this bill, and the frequency of such widespread infectious diseases resulting in a public health emergency cannot be accurately forecast. In general, however, the bill should result in lower State operating expenses during times when a public health emergency is declared.

ASSEMBLY BUDGET COMMITTEE

STATEMENT TO

[Third Reprint]

ASSEMBLY, No. 4235

with committee amendments

STATE OF NEW JERSEY

DATED: SEPTEMBER 22, 2020

The Assembly Budget Committee reports favorably Assembly Bill No. 4235 (3R) with committee amendments.

As amended and reported by the committee, Assembly Bill No. 4235 (3R) requires public health emergency credits to be awarded to certain inmates, juveniles, and parolees during a public health emergency declared by the Governor to provide remission of time from an inmate's or juvenile's sentence, and a parolee's term of parole. The amended bill also prohibits contact with any identifiable victim following the release of an inmate or juvenile awarded credits, and requires certain reentry information to be provided prior to release.

The COVID-19 death rate of inmates in New Jersey is the highest in the country. Inmates in this State have been afflicted at a particularly alarming rate due to the inability to quarantine or practice social distancing. The provisions of this amended bill would expedite the release of certain inmates and juveniles who are approaching the end of their sentences to reduce the risk of harm to inmates, juveniles, and facility staff, while protecting the public safety.

The amended bill provides for public health emergency credits to be awarded to an inmate in the custody of the Department of Corrections (DOC) or a juvenile in the custody of the Juvenile Justice Commission (JJC) who is scheduled to be released from custody within one year. The credits are to be awarded if a public health emergency is declared by the Governor in response to a communicable or infectious disease, and results in substantial modification to department-wide correctional facility operations. The credits would reduce the inmate or juvenile's sentence at the rate of four months for each month, or portion of each month, served during the declared emergency, with a maximum of eight months of remission to be awarded for any declared emergency period. The bill also provides that an award of public health emergency credits is not to limit or affect an inmate's eligibility for parole consideration. Public health emergency credits would not be awarded to any inmate or juvenile who is serving a sentence for murder, aggravated sexual assault, or who has been deemed a repetitive, compulsive sex offender.

A juvenile who is awarded credits under the bill, and whose scheduled release date is less than 45 days following the effective date of the bill, is to be released within 45 days after the effective date of the bill in order to enable the JJC to devise and implement a release plan for the juvenile and arrange for services to be provided to the juvenile upon release.

Under the bill, an inmate or juvenile who is released following an award of credits is prohibited from making contact with any victim of the crime for which the inmate or juvenile was serving a sentence. This contact prohibition is to remain in force from the date the inmate or juvenile is released until the date the inmate or juvenile was scheduled to be released from custody prior to the award of credits. Specifically, the amended bill would prohibit any contact, either personally or through an agent, that includes personal, written, electronic, or telephone contact with the victim, or entering the victim's residence, property, school, or place of employment.

The court is required to establish procedures for filing a petition to dissolve the contact prohibition. An inmate or juvenile who purposely or knowingly violates the contact prohibition is guilty of a crime of the fourth degree, which is punishable by a term of imprisonment of up to 18 months, a fine of up to \$10,000 or both.

Prior to releasing an inmate following an award of public health emergency credits, the DOC and JJC are required to notify the inmate or juvenile, as appropriate, in writing of the contact prohibition, and that a violation of the contact prohibition is a crime of the fourth degree. The DOC and JJC also are to require the inmate to acknowledge receipt, in writing, of the written notifications related to the contact prohibition provided under the amended bill.

The DOC is required under the bill to provide inmates, prior to release, with information concerning reentry organizations and programs. The DOC also is required, within 30 days prior to releasing an inmate following an award of credits, to provide any available information related to the inmate's eligibility for Medicaid, housing information, identification information, and eligibility for any other benefits and services. Subject to the availability of DOC testing resources, the DOC is required to test an inmate for COVID-19 prior to release following an award of public health emergency credits if the inmate is released during the Public Health Emergency and State of Emergency declared by the Governor in Executive Order 103 of 2020 concerning the coronavirus disease 2019 pandemic.

The provisions of the amended bill also require the DOC or JJC, as appropriate, to notify the appropriate court and the prosecutor of the county in which the inmate was convicted or the Attorney General if the matter was prosecuted by the Attorney General of: the name of any inmate or juvenile who is scheduled to be released from custody within 12 months as a result of the award of credits; the date the

inmate or juvenile is scheduled to be released; and the date the inmate or juvenile was scheduled to be released prior to the award of credits.

Information concerning the procedures for filing an application for a domestic violence restraining order, resources for victims of domestic violence, and the procedures for filing a petition to dissolve the contact prohibition established under the bill are to be made available in both English and Spanish on the DOC, JJC, and Department of Law and Public Safety websites.

The prosecutor or Attorney General may, prior to the scheduled release date, use any reasonable means available to notify an identifiable victim of: the crime for which the inmate or juvenile is serving a sentence of the inmate's or juvenile's scheduled release date, the law prohibiting the inmate or juvenile from having any contact with the victim, the date the contact prohibition will expire, the penalties imposed for a violation; information concerning the procedures for filing an application to dissolve the contact prohibition, the procedures for filing an application for a domestic violence restraining order, and resources for victims of domestic violence.

The provisions of the amended bill also require public health emergency credits to be awarded to a parolee whose term expires within one year if a public health emergency is declared by the Governor that arises as a result of a communicable or infectious disease. The credits would reduce the parolee's term of supervision at the rate of four months for each month, or portion of each month, of the parolee's term served during the declared emergency, with a maximum of eight months of remission awarded for any declared emergency period.

A parolee who has been sentenced to a special sentence of community supervision for life or parole supervision for life, or a parolee for whom a warrant has been issued or parole revocation proceedings have been initiated, is ineligible to receive credits under the amended bill. The amended bill further clarifies that the award of public health emergency credits are not to interfere with the award of compliance credits to be awarded to a parolee under current law. Likewise, an award of compliance credits is not to interfere with the award of public health emergency credits under the amended bill.

As amended and reported by the committee, this bill is identical to Senate Bill No. 2519 (4R), which also was amended and reported by the committee.

COMMITTEE AMENDMENTS

The committee amended the bill to provide that an inmate or juvenile is not eligible to receive public health emergency credits if the inmate or juvenile is serving a sentence for murder or aggravated sexual assault. As introduced, only an inmate or juvenile who was deemed a repetitive, compulsive sex offender was ineligible to receive credits.

FISCAL IMPACT:

The Office of Legislative Services (OLS) concludes that accelerating the release date of certain inmates and juvenile offenders and reducing the parole term of certain parolees by up to eight months by awarding them public health emergency credits could lower the operating expenditures of the Department of Corrections (DOC), the State Parole Board (SPB), and the Juvenile Justice Commission (JJC) during times when a public health emergency is declared. However, the OLS is unable to quantify the savings from housing an offender or supervising parolees for a reduced period of time due to lack of sufficient data.

The OLS lacks sufficient information to quantify the overall fiscal impact as it is unclear as to how many offenders and parolees would be impacted by the provisions of this bill, and the frequency of such widespread infectious diseases resulting in a public health emergency cannot be accurately forecast. In general, however, the bill should result in lower State operating expenses during times when a public health emergency is declared.

The OLS concurs with the DOC that the State may incur some cost for COVID-19 testing under the provisions of the bill. However, the OLS is unable to project the number of inmates who would be eligible for early release and need testing.

STATEMENT TO
[First Reprint]
ASSEMBLY, No. 4235

with Assembly Floor Amendments
(Proposed by Assemblyman MUKHERJI)

ADOPTED: JULY 30, 2020

Assembly Bill No. 4235 (1R) requires public health emergency credits to be awarded to certain inmates during a public health emergency and requires the entry of a “no contact” order upon release of an inmate who is awarded credits.

These Assembly amendments: clarify that public health emergency credits are to be awarded if a declared emergency results in the substantial modification of department-wide correctional facility operations; clarify that public health emergency credits awarded under the bill will reduce an inmate’s mandatory minimum term; provide that the provisions related to victim notification by the prosecutor or Attorney General are permissive, rather than mandatory; provide that a “no contact” order prohibiting an inmate or juvenile, as appropriate, from having any contact with an identifiable victim will be entered in each case in which there is an identifiable victim of the crime for which the inmate or juvenile is serving a sentence; require the court to include in the “no contact” order information concerning the procedures for filing a petition to dissolve the order; replace any references to months with the appropriate corresponding number of days; clarify that public health emergency credits are not to be awarded to any inmate who has been deemed a repetitive and compulsive sex offender, regardless of whether the person is in treatment; modify the provisions of the bill which relate to juveniles in the custody of the Juvenile Justice Commission (JJC) to provide that a juvenile who is awarded credits under the bill, and whose scheduled release date is less than 45 days following the effective date of the bill, is to be released within 45 days, but not later than 50 days, after the effective date of the bill in order to enable the JJC to devise and implement a release plan for the juvenile and arrange for services to be provided to the juvenile upon release; and provide that the bill is to take effect on the 16th day next following enactment.

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

ASSEMBLY, No. 4235

STATE OF NEW JERSEY 219th LEGISLATURE

DATED: JULY 31, 2020

SUMMARY

Synopsis: Requires public health emergency credits to be awarded to certain inmates during public health emergency; requires notice to victim and entry of “no contact” order upon release of inmate awarded credits.

Type of Impact: Periodic State expenditure decrease.

Agencies Affected: Department of Corrections, Juvenile Justice Commission.

Office of Legislative Services Estimate

Fiscal Impact	
Periodic State Cost Decrease	Indeterminate

- The Office of Legislative Services (OLS) concludes that accelerating the release date of certain inmates and juvenile offenders by up to eight months by awarding them public health emergency credits could lower the operating expenditures of the Department of Corrections (DOC) and the Juvenile Justice Commission (JJC) during times when a public health emergency is declared. However, the OLS is unable to quantify the savings from housing an offender for a reduced period of time due to lack of sufficient data.
- The OLS lacks sufficient information to quantify the overall fiscal impact as it is unclear as to how many offenders would be impacted by the provisions of this bill. Furthermore, the frequency of such widespread infectious diseases resulting in a public health emergency cannot be accurately forecast.

BILL DESCRIPTION

This bill requires public health emergency credits to be awarded to certain inmates during a public health emergency declared by the Governor. The credits would provide remission of time from the inmates’ sentences. The bill also requires notice to any identifiable victim that an inmate

who was awarded credits will be released, and requires the entry of a “no contact” order prohibiting the inmate from having contact with an identifiable victim under certain circumstances.

Under the bill, public health emergency credits are to be awarded to any inmate in the custody of the DOC who is serving a sentence or receiving jail credits applicable to the sentence. The credits would provide further remission from both the maximum and minimum term of the inmate’s sentence at the rate of four months for each month, or portion of each month, served during the declared emergency with a maximum of eight months of remission to be awarded for any declared emergency period. The award of public health emergency credits is not to limit or affect an inmate’s eligibility for parole consideration.

Public health emergency credits are not to be awarded under the bill to an inmate who has been deemed a repetitive, compulsive sex offender. The bill also provides that juvenile offenders, other than those deemed to be repetitive, compulsive sex offenders, are eligible to receive public health emergency credits.

Under the amended, the Commissioner of Corrections or Executive Director of the Juvenile Justice Commission, as appropriate, is to notify the appropriate court and the prosecutor of the county in which the inmate was convicted or the Attorney General if the matter was prosecuted by the Attorney General and provide details such as name and release date of the inmate or juvenile to be released due to public health emergency credits.

The prosecutor or Attorney General is required, not less than five days prior to the inmate or juvenile’s scheduled release date to notify any identifiable victim of the crime of the scheduled release date; that a “no contact” order will be entered prohibiting the inmate or juvenile from having any contact with the victim; the date that the order, if entered, will expire; and the penalties imposed for a violation; and provide information to the victim concerning how to dissolve a “no contact” order, the procedures for filing an application for a domestic violence final restraining order, and resources for victims of domestic violence.

The court is to enter an order prohibiting the inmate from having any contact with an identifiable victim if the prosecutor notifies the court that an identifiable victim does not oppose the entry of an order or the prosecutor was unable to contact the victim. Any order entered under the bill is to expire on the date that the inmate was scheduled to be released prior to the award of public health emergency credits. An inmate or juvenile who purposely or knowingly violates a “no contact” order is guilty of a crime of the fourth degree. A crime of the fourth degree is punishable by imprisonment of up to 18 months, a fine of up to \$10,000, or both.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS concludes that accelerating the release date of certain inmates and juvenile offenders by up to eight months by awarding them public health emergency credits could lower the operating expenditures of the DOC and the JJC during times when a public health emergency is declared. However, the OLS is unable to quantify the likely reduction in housing costs due to lack of sufficient information and the unpredictability of the frequency of such widespread infectious diseases. Data obtained from the DOC indicate that the average annual cost to house an inmate in a State prison facility during FY 2019 totaled \$50,191. However, this total savings would not be

realized unless the population declines by a number large enough for the DOC to lower bed space capacity and reduce its fixed costs. Savings to be generated by a small number of inmates released early from State prison and not reducing bed spaces would total \$8.60 per day or \$2,064 for a maximum credit of eight months per inmate in marginal costs, for food, wages and clothing.

The State may receive revenue from additional fines and penalties imposed on individuals convicted of the new crime. An inmate or juvenile who purposely or knowingly violates a “no contact” order is guilty of a crime of the fourth degree. A crime of the fourth degree is punishable by imprisonment of up to 18 months, a fine of up to \$10,000, or both. However, it is not possible to forecast the number of offenders likely to violate the “no contact” order. The OLS also notes that many fines go unpaid because of the financial condition of the offenders.

Section: Judiciary

Analyst: Anuja Pande Joshi
Assistant Research Analyst

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

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

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

LEGISLATIVE FISCAL ESTIMATE

[Second Reprint]

ASSEMBLY, No. 4235

STATE OF NEW JERSEY 219th LEGISLATURE

DATED: AUGUST 28, 2020

SUMMARY

- Synopsis:** Requires public health emergency credits to be awarded to certain inmates during public health emergency; requires entry of “no contact” order upon release of inmate awarded credits.
- Type of Impact:** Periodic State expenditure decrease.
- Agencies Affected:** Department of Corrections, Juvenile Justice Commission.

Office of Legislative Services Estimate

Fiscal Impact	
Periodic State Cost Decrease	Indeterminate

- The Office of Legislative Services (OLS) concludes that accelerating the release date of certain inmates and juvenile offenders by up to approximately eight months (244 days) by awarding them public health emergency credits could lower the operating expenditures of the Department of Corrections (DOC) and the Juvenile Justice Commission (JJC) during times when a public health emergency is declared. However, the OLS is unable to quantify the savings from housing an offender for a reduced period of time due to lack of sufficient data.
- The OLS lacks sufficient information to quantify the overall fiscal impact as it is unclear as to how many offenders would be impacted by the provisions of this bill. Furthermore, the frequency of such widespread infectious diseases resulting in a public health emergency cannot be accurately forecast.

BILL DESCRIPTION

The bill requires public health emergency credits to be awarded to certain inmates during a public health emergency and requires the entry of a “no contact” order upon release of an inmate who is awarded credits.

The bill provides that public health emergency credits are to be awarded if a declared emergency results in the substantial modification of department-wide correctional facility

operations. The bill also provides that public health emergency credits awarded under the bill would reduce an inmate's mandatory minimum term; the provisions related to victim notification by the prosecutor or Attorney General are permissive, rather than mandatory; and a "no contact" order prohibiting an inmate or juvenile, as appropriate, from having any contact with an identifiable victim will be entered in each case in which there is an identifiable victim of the crime for which the inmate or juvenile is serving a sentence. The bill requires the court to include in the "no contact" order information concerning the procedures for filing a petition to dissolve the order; replace any references to months with the appropriate corresponding number of days; and clarify that public health emergency credits are not to be awarded to any inmate who has been deemed a repetitive and compulsive sex offender, regardless of whether the person is in treatment.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS concludes that accelerating the release date of certain inmates and juvenile offenders by up to approximately eight months by awarding them public health emergency credits could lower the operating expenditures of the DOC and the JJC during times when a public health emergency is declared. However, the OLS is unable to quantify the likely reduction in housing costs due to lack of sufficient information and the unpredictability of the frequency of such widespread infectious diseases. Data obtained from the DOC indicate that the average annual cost to house an inmate in a State prison facility during FY 2019 totaled \$50,191. However, this total savings would not be realized unless the population declines by a number large enough for the DOC to lower bed space capacity and reduce its fixed costs. Savings to be generated by a small number of inmates released early from State prison and not reducing bed spaces would total \$8.60 per day or \$2,064 for a maximum credit of eight months per inmate in marginal costs, for food, wages and clothing.

The State may receive revenue from additional fines and penalties imposed on individuals convicted of violating a "no contact" order. An inmate or juvenile who purposely or knowingly violates a "no contact" order is guilty of a crime of the fourth degree. A crime of the fourth degree is punishable by imprisonment of up to 18 months, a fine of up to \$10,000, or both. However, it is not possible to forecast the number of offenders likely to violate the "no contact" order. The OLS also notes that many fines go unpaid because of the financial condition of the offenders.

Section: Judiciary

Analyst: Anuja Pande Joshi
Assistant Research Analyst

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

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

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

LEGISLATIVE FISCAL ESTIMATE

[Third Reprint]

ASSEMBLY, No. 4235

STATE OF NEW JERSEY 219th LEGISLATURE

DATED: AUGUST 31, 2020

SUMMARY

- Synopsis:** Requires public health emergency credits to be awarded to certain inmates and parolees during public health emergency; prohibits contact with victim upon release of inmate awarded credits.
- Type of Impact:** Periodic State expenditure decrease; potential periodic State expenditure
- Agencies Affected:** Department of Corrections, State Parole Board, Juvenile Justice Commission.

Office of Legislative Services Estimate

Fiscal Impact	
Periodic State Cost Decrease	Indeterminate
Potential Periodic State Cost Increase	Indeterminate

- The Office of Legislative Services (OLS) concludes that accelerating the release date of certain inmates and juvenile offenders and reducing the parole term of certain parolees by up to eight months by awarding them public health emergency credits could lower the operating expenditures of the Department of Corrections (DOC), the State Parole Board (SPB), and the Juvenile Justice Commission (JJC) during times when a public health emergency is declared. However, the OLS is unable to quantify the savings from housing an offender or supervising parolees for a reduced period of time due to lack of sufficient data.
- The OLS lacks sufficient information to quantify the overall fiscal impact as it is unclear as to how many offenders and parolees would be impacted by the provisions of this bill, and the frequency of such widespread infectious diseases resulting in a public health emergency cannot be accurately forecast. In general, however, the bill should result in lower State operating expenses during times when a public health emergency is declared.
- The OLS concurs with the DOC that the State may incur some cost for COVID-19 testing under the provisions of the bill. However, the OLS is unable to project the number of inmates who would be eligible for early release and need testing.

BILL DESCRIPTION

The bill requires public health emergency credits to be awarded to certain inmates, juveniles, and parolees during a public health emergency declared by the Governor to provide remission of time from an inmate's or juvenile's sentence, and a parolee's term of parole. The bill also prohibits contact with any identifiable victim following the release of an inmate or juvenile awarded credits, and requires certain reentry information to be provided prior to release.

The bill provides for public health emergency credits to be awarded to an inmate in the custody of the DOC or a juvenile in the custody of the JJC who is scheduled to be released from custody within one year. The credits are to be awarded if a public health emergency is declared by the Governor in response to a communicable or infectious disease, and results in substantial modification to department-wide correctional facility operations. The credits would reduce the inmate or juvenile's sentence at the rate of four months for each month, or portion of each month, served during the declared emergency, with a maximum of eight months of remission to be awarded for any declared emergency period. The bill also provides that an award of public health emergency credits is not to limit or affect an inmate's eligibility for parole consideration. Public health emergency credits are not to be awarded to an inmate or juvenile who has been deemed a repetitive, compulsive sex offender.

Under the bill, an inmate or juvenile who is released following an award of credits is prohibited from making contact with any victim of the crime for which the inmate or juvenile was serving a sentence. This contact prohibition is to remain in force from the date the inmate or juvenile is released until the date the inmate or juvenile was scheduled to be released from custody prior to the award of credits. Specifically, the bill would prohibit any contact, either personally or through an agent, that includes personal, written, electronic, or telephone contact with the victim, or entering the victim's residence, property, school, or place of employment.

The court is required to establish procedures for filing a petition to dissolve the contact prohibition. An inmate or juvenile who purposely or knowingly violates the contact prohibition is guilty of a crime of the fourth degree, which is punishable by a term of imprisonment of up to 18 months, a fine of up to \$10,000 or both.

The DOC is required under the bill to provide inmates, prior to release, with information concerning reentry organizations and programs. The DOC also is required, within 30 days prior to releasing an inmate following an award of credits, to provide any available information related to the inmate's eligibility for Medicaid, housing information, identification information, and eligibility for any other benefits and services. Subject to the availability of DOC testing resources, the DOC is required to test an inmate for COVID-19 prior to release following an award of public health emergency credits if the inmate is released during the Public Health Emergency and State of Emergency declared by the Governor in Executive Order 103 of 2020 concerning the coronavirus disease 2019 pandemic.

The provisions of the bill also require the DOC or JJC, as appropriate, to notify the appropriate court and the prosecutor of the county in which the inmate was convicted or the Attorney General if the matter was prosecuted by the Attorney General of: the name of any inmate or juvenile who is scheduled to be released from custody within 12 months as a result of the award of credits; the date the inmate or juvenile is scheduled to be released; and the date the inmate or juvenile was scheduled to be released prior to the award of credits.

Information concerning the procedures for filing an application for a domestic violence restraining order, resources for victims of domestic violence, and the procedures for filing a petition to dissolve the contact prohibition established under the bill are to be made available in both English and Spanish on the DOC, JJC, and Department of Law and Public Safety websites.

The prosecutor or Attorney General is required, not less than five days prior to the scheduled release date, to use any reasonable means available to notify an identifiable victim of: the crime for which the inmate or juvenile is serving a sentence of the inmate's or juvenile's scheduled release date, the law prohibiting the inmate or juvenile from having any contact the victim, the date the contact prohibition will expire, the penalties imposed for a violation; information concerning the procedures for filing an application to dissolve the contact prohibition, the procedures for filing an application for a domestic violence restraining order, and resources for victims of domestic violence.

The provisions of the bill also require public health emergency credits to be awarded to a parolee whose term expires within one year if a public health emergency is declared by the Governor that arises as a result of a communicable or infectious disease. The credits would reduce the parolee's term of supervision at the rate of four months for each month, or portion of each month, of the parolee's term served during the declared emergency, with a maximum of eight months of remission awarded for any declared emergency period.

A parolee who has been sentenced to a special sentence of community supervision for life or parole supervision for life, or a parole for a whom a warrant has been issued or parole revocation proceedings have been initiated, is ineligible to receive credits under the bill. The bill further clarifies that the award of public health emergency credits are not to interfere with the award of compliance credits to be awarded to a parolee under current law. Likewise, an award of compliance credits is not to interfere with the award of public health emergency credits under the bill.

FISCAL ANALYSIS

EXECUTIVE BRANCH

The OLS has not received a formal fiscal note on this bill. However, upon request, the DOC has indicated to the OLS that the bill may have some fiscal impact with regard to the provision on COVID-19 testing. The DOC notes that the cost of one COVID-19 test kit is currently \$65.00. However, the DOC has been advised that as of September 1, 2020 the cost will be increased to \$81.25. The DOC estimates an additional salary cost for staff to administer the test. The DOC estimates that at least one staff member, at a cost of \$40/hour, and one supervisor, at a cost of \$43.86/hour, will be needed to administer the COVID-19 inmate testing. DOC estimates that staff can complete about ten tests of inmates for COVID-19 per hour.

OFFICE OF LEGISLATIVE SERVICES

The OLS concludes that accelerating the release date of certain inmates and juvenile offenders and reducing the parole term of certain parolees by up to eight months by awarding them public health emergency credits could lower the operating expenditures of the DOC, the JJC, and the SPB during times when a public health emergency is declared. However, the OLS is unable to quantify the likely reduction in housing costs due to lack of sufficient information and the unpredictability of the frequency of such widespread infectious diseases. Data obtained from the DOC indicate that the average annual cost to house an inmate in a State prison facility during FY 2019 totaled \$50,191. However, this total savings would not be realized unless the population declines by a number large enough for the DOC to lower bed space capacity and reduce its fixed costs. Savings to be generated by a small number of inmates released early from State prison and not reducing

bed spaces would total \$8.60 per day or \$2,064 for a maximum credit of eight months per inmate in marginal costs for food, wages and clothing.

The State may receive revenue from additional fines and penalties imposed on individuals convicted of the new crime established by the bill. An inmate or juvenile who purposely or knowingly violates a “no contact” order is guilty of a crime of the fourth degree. A crime of the fourth degree is punishable by imprisonment of up to 18 months, a fine of up to \$10,000, or both. However, it is not possible to forecast the number of offenders likely to violate the “no contact” order. The OLS also notes that many fines go unpaid because of the financial condition of the offenders.

The OLS concurs with the DOC that the State may incur some cost for COVID-19 testing. Under the provisions of the bill and subject to the availability of DOC testing resources, the DOC is required to test an inmate for COVID-19 prior to release following an award of public health emergency credits. The OLS is unable to project the number of inmates who would need testing due to early release from public health emergency credits during the current pandemic or what kind of testing would be needed in the future in case of a pandemic.

Section: Judiciary
Analyst: Anuja Pande Joshi
Assistant Research Analyst
Approved: Frank W. Haines III
Legislative Budget and Finance Officer

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

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

LEGISLATIVE FISCAL ESTIMATE

[Fourth Reprint]

ASSEMBLY, No. 4235

STATE OF NEW JERSEY 219th LEGISLATURE

DATED: SEPTEMBER 28, 2020

SUMMARY

- Synopsis:** Requires public health emergency credits to be awarded to certain inmates and parolees during public health emergency; prohibits contact with victim upon release of inmate awarded credits.
- Type of Impact:** Periodic State expenditure decrease; potential periodic State expenditure increase
- Agencies Affected:** Department of Corrections, State Parole Board, Juvenile Justice Commission.

Office of Legislative Services Estimate

Fiscal Impact	
Periodic State Cost Decrease	Indeterminate
Potential Periodic State Cost Increase	Indeterminate

- The Office of Legislative Services (OLS) concludes that accelerating the release date of certain inmates and juvenile offenders and reducing the parole term of certain parolees by up to eight months by awarding them public health emergency credits could lower the operating expenditures of the Department of Corrections (DOC), the State Parole Board (SPB), and the Juvenile Justice Commission (JJC) during times when a public health emergency is declared. However, the OLS is unable to quantify the savings from housing an offender or supervising parolees for a reduced period of time due to lack of sufficient data.
- The OLS lacks sufficient information to quantify the overall fiscal impact as it is unclear as to how many offenders and parolees would be impacted by the provisions of this bill, and the frequency of such widespread infectious diseases resulting in a public health emergency cannot be accurately forecast. In general, however, the bill should result in lower State operating expenses during times when a public health emergency is declared.
- The OLS concurs with the DOC that the State may incur some cost for COVID-19 testing under the provisions of the bill. However, the OLS is unable to project the number of inmates who would be eligible for early release and need testing.

BILL DESCRIPTION

The bill requires public health emergency credits to be awarded to certain inmates, juveniles, and parolees during a public health emergency declared by the Governor to provide remission of time from an inmate's or juvenile's sentence, and a parolee's term of parole. The bill also prohibits contact with any identifiable victim following the release of an inmate or juvenile awarded credits, and requires certain reentry information to be provided prior to release.

The bill provides for public health emergency credits to be awarded to an inmate in the custody of the DOC or a juvenile in the custody of the JJC who is scheduled to be released from custody within one year. The credits are to be awarded if a public health emergency is declared by the Governor in response to a communicable or infectious disease, and results in substantial modification to department-wide correctional facility operations. The credits would reduce the inmate or juvenile's sentence at the rate of four months for each month, or portion of each month, served during the declared emergency, with a maximum of eight months of remission to be awarded for any declared emergency period. The bill also provides that an award of public health emergency credits is not to limit or affect an inmate's eligibility for parole consideration. Public health emergency credits would not be awarded to any inmate or juvenile who is serving a sentence for murder, aggravated sexual assault, or who has been deemed a repetitive, compulsive sex offender.

Under the bill, an inmate or juvenile who is released following an award of credits is prohibited from making contact with any victim of the crime for which the inmate or juvenile was serving a sentence. This contact prohibition is to remain in force from the date the inmate or juvenile is released until the date the inmate or juvenile was scheduled to be released from custody prior to the award of credits. Specifically, the bill would prohibit any contact, either personally or through an agent, that includes personal, written, electronic, or telephone contact with the victim, or entering the victim's residence, property, school, or place of employment.

The court is required to establish procedures for filing a petition to dissolve the contact prohibition. An inmate or juvenile who purposely or knowingly violates the contact prohibition is guilty of a crime of the fourth degree, which is punishable by a term of imprisonment of up to 18 months, a fine of up to \$10,000 or both.

The DOC is required under the bill to provide inmates, prior to release, with information concerning reentry organizations and programs. The DOC also is required, within 30 days prior to releasing an inmate following an award of credits, to provide any available information related to the inmate's eligibility for Medicaid, housing information, identification information, and eligibility for any other benefits and services. Subject to the availability of DOC testing resources, the DOC is required to test an inmate for COVID-19 prior to release following an award of public health emergency credits if the inmate is released during the Public Health Emergency and State of Emergency declared by the Governor in Executive Order 103 of 2020 concerning the coronavirus disease 2019 pandemic.

The provisions of the bill also require the DOC or JJC, as appropriate, to notify the appropriate court and the prosecutor of the county in which the inmate was convicted or the Attorney General if the matter was prosecuted by the Attorney General of: the name of any inmate or juvenile who is scheduled to be released from custody within 12 months as a result of the award of credits; the date the inmate or juvenile is scheduled to be released; and the date the inmate or juvenile was scheduled to be released prior to the award of credits.

Information concerning the procedures for filing an application for a domestic violence restraining order, resources for victims of domestic violence, and the procedures for filing a petition to dissolve the contact prohibition established under the bill are to be made available in both English and Spanish on the DOC, JJC, and Department of Law and Public Safety websites.

The prosecutor or Attorney General is required, not less than five days prior to the scheduled release date, to use any reasonable means available to notify an identifiable victim of: the crime for which the inmate or juvenile is serving a sentence of the inmate's or juvenile's scheduled release date, the law prohibiting the inmate or juvenile from having any contact the victim, the date the contact prohibition will expire, the penalties imposed for a violation; information concerning the procedures for filing an application to dissolve the contact prohibition, the procedures for filing an application for a domestic violence restraining order, and resources for victims of domestic violence.

The provisions of the bill also require public health emergency credits to be awarded to a parolee whose term expires within one year if a public health emergency is declared by the Governor that arises as a result of a communicable or infectious disease. The credits would reduce the parolee's term of supervision at the rate of four months for each month, or portion of each month, of the parolee's term served during the declared emergency, with a maximum of eight months of remission awarded for any declared emergency period.

A parolee who has been sentenced to a special sentence of community supervision for life or parole supervision for life, or a parole for a whom a warrant has been issued or parole revocation proceedings have been initiated, is ineligible to receive credits under the bill. The bill further clarifies that the award of public health emergency credits are not to interfere with the award of compliance credits to be awarded to a parolee under current law. Likewise, an award of compliance credits is not to interfere with the award of public health emergency credits under the bill.

FISCAL ANALYSIS

EXECUTIVE BRANCH

The OLS has not received a formal fiscal note on this bill. However, upon request, the DOC has indicated to the OLS that the bill may have some fiscal impact with regard to the provision on COVID-19 testing. The DOC notes that the cost of one COVID-19 test kit is currently \$65.00. However, the DOC has been advised that as of September 1, 2020 the cost will be increased to \$81.25. The DOC estimates an additional salary cost for staff to administer the test. The DOC estimates that at least one staff member, at a cost of \$40/hour, and one supervisor, at a cost of \$43.86/hour, will be needed to administer the COVID-19 inmate testing. DOC estimates that staff can complete about ten tests of inmates for COVID-19 per hour.

OFFICE OF LEGISLATIVE SERVICES

The OLS concludes that accelerating the release date of certain inmates and juvenile offenders and reducing the parole term of certain parolees by up to eight months by awarding them public health emergency credits could lower the operating expenditures of the DOC, the JJC, and the SPB during times when a public health emergency is declared. However, the OLS is unable to quantify the likely reduction in housing costs due to lack of sufficient information and the unpredictability of the frequency of such widespread infectious diseases. Data obtained from the DOC indicate that the average annual cost to house an inmate in a State prison facility during FY 2019 totaled \$50,191. However, this total savings would not be realized unless the population declines by a number large enough for the DOC to lower bed space capacity and reduce its fixed costs. Savings to be generated by a small number of inmates released early from State prison and not reducing

bed spaces would total \$8.60 per day or \$2,064 for a maximum credit of eight months per inmate in marginal costs for food, wages and clothing.

The State may receive revenue from additional fines and penalties imposed on individuals convicted of the new crime established by the bill. An inmate or juvenile who purposely or knowingly violates a “no contact” order is guilty of a crime of the fourth degree. A crime of the fourth degree is punishable by imprisonment of up to 18 months, a fine of up to \$10,000, or both. However, it is not possible to forecast the number of offenders likely to violate the “no contact” order. The OLS also notes that many fines go unpaid because of the financial condition of the offenders.

The OLS concurs with the DOC that the State may incur some cost for COVID-19 testing. Under the provisions of the bill and subject to the availability of DOC testing resources, the DOC is required to test an inmate for COVID-19 prior to release following an award of public health emergency credits. The OLS is unable to project the number of inmates who would need testing due to early release from public health emergency credits during the current pandemic or what kind of testing would be needed in the future in case of a pandemic.

Section: Judiciary

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

10/19/2020

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

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

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

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

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

Primary sponsors of S2519 include Senators Nellie Pou and Sandra B. Cunningham, and Assemblymembers Raj Mukherji, Shavonda E. Sumter, and Verlina Reynolds-Jackson.

“I am incredibly grateful that the governor has supported this legislation, as we continue to battle the COVID-19 pandemic, this will go a long way in protecting the state’s prison population,” **said Senator Nellie Pou**. “People in the state’s custody have the same fundamental right to health and safety as everyone else in our society. Given that certain inmates are reasonably able to be released early, particularly those nearing the end of their sentences, this legislation not only gives them security but it will thin the population inside the prisons, more easily provide for social distancing, and keep everyone, including corrections officers, safer.”

“New Jersey has the highest rate of inmate deaths due to COVID-19 in the nation, and one of the highest rates of infection among those incarcerated,” **said Senator Sandra Cunningham**. “This legislation puts a stronger system in place to protect our prison population when we face public health emergencies to ensure this doesn’t happen again.”

“Our prison system has been severely impacted by the COVID-19 pandemic. Inmates have been afflicted at a particularly alarming rate due to the inability to quarantine or practice social distancing, creating a higher risk for individuals and the community at large upon their release,” **said Assemblymembers Mukherji, Sumter, and**

Reynolds-Jackson in a joint statement. “Public health emergency credits will help expedite the release of certain inmates who are approaching the end of their sentences to reduce transmission to inmates and correctional facility staff. If we can enhance public health and safety by releasing eligible prisoners who are getting out anyway, we can effectively help reduce the spread of the virus in these facilities and reduce risk to the community upon their release.”

Under the bill, public health emergency credits would be awarded to any adult inmate or juvenile who is within 365 days of their scheduled release. Credits would accrue at the rate of 122 days (four months) for each month, or portion of each month, served during the declared emergency with a maximum of 244 days (eight months) of remission to be awarded for any declared emergency period. Credits would not to be awarded to anyone who is serving a sentence for murder or aggravated sexual assault or who has been deemed a repetitive, compulsive sex offender.

The National Action Network under the leadership of Reverend Al Sharpton advocates for “no justice, no peace.” NAN applauds the Governor for the pandemic release,” **said Reverend Steffie Bartley, Northeastern Regional Director for the National Action Network.** “Those incarcerated have few services, the COVID crisis worsens access to health care and training. NAN will continue to offer support to thousands of returning persons.

The Pandemic Release ensures that incarcerated persons will have the opportunity of a “Second Chance.” If prison is always difficult, during COVID, even more so,” **said Governor James McGreevey, Executive Director of the New Jersey Reentry Services Corporation .** “Now the hard work with NAN begins, providing reentry services and employment to those returning home, those who want to do the “next right thing.” NJRC is grateful for the Governor’s strong leadership on a “Second Chance” state agenda.”

“It is critical that we take every step to protect our most vulnerable,” **said Reverend Dr. Charles F. Boyer, Director of Salvation and Justice and Pastor of the Bethel AME Woodbury Church.** “Just as the cases are rising in our state and nation Governor Murphy has taken a bold measure to mitigate more suffering. New Jersey serves as a national model and we are prayerful that other states follow suit.”

“With the signature of this bill, Governor Murphy is not only doing the right thing for New Jersey’s most vulnerable families, but he is also gifting the rest of the country a model for best practices during a pandemic,” **said Reverend Amos Caley, Organizer at New Jersey Prison Justice Watch.** “By prioritizing public health over heartlessly punitive policy, our governor has taken a strong step in the direction of embracing effective and compassionate justice practices. This is especially important as we brace for more waves of this deadly virus.”

“The spread of COVID-19 in New Jersey’s prisons has been a matter of public health, a matter of racial justice, and, fundamentally, a matter of life and death,” **said Amol Sinha, Executive Director, ACLU of New Jersey.** “With the signing of this bill into law, New Jersey has taken steps to prevent more unnecessary deaths, and it provides a roadmap for the rest of the nation to contain the spread of COVID-19 in an environment where people are particularly vulnerable to it.”

“New Jersey understands that reducing the prison population will protect public safety, save money, and stop dangerous diseases like COVID-19 from spreading behind bars,” **said Jessica Jackson, Chief Advocacy Officer at the REFORM Alliance.** “We applaud lawmakers for showing compassion and taking action to get people out of the virus’ path and back home where they belong.”

This Week in New Jersey: October 23, 2020

10/23/2020



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

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

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

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

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

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

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Governor Murphy Signs Sentencing Reform Legislation

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



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

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

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

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

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

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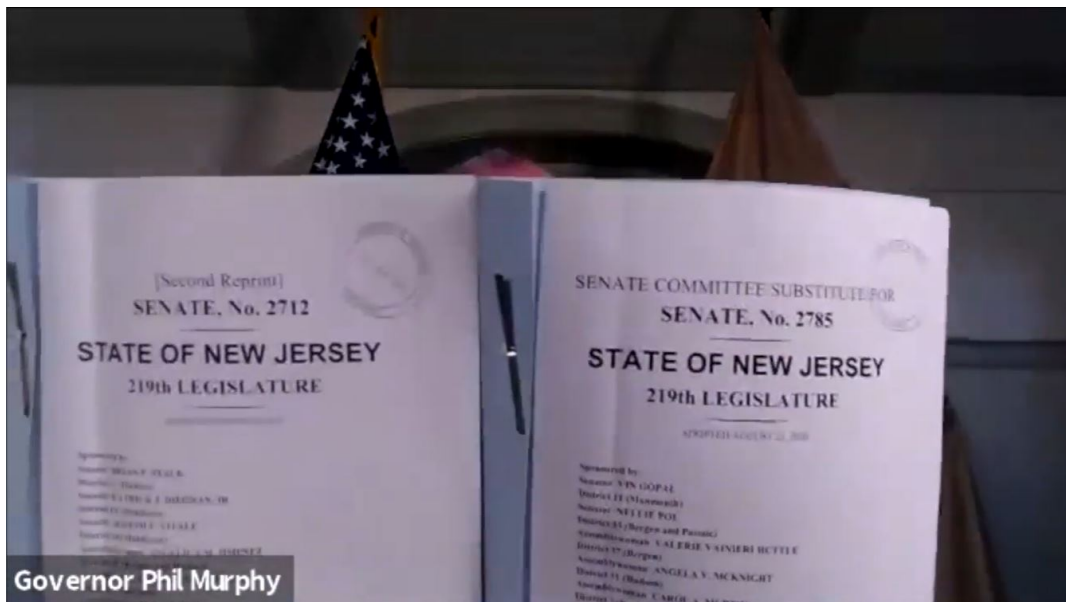
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Governor Murphy Signs Legislation Requiring Reforms to Long-Term Care Industry

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



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

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

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

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

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



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

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

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

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