

2C:47-4

LEGISLATIVE HISTORY CHECKLIST
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NJSA: 2C:47-4 (Adult Diagnostic & Treatment Center--
reduction of inmates)

LAWS OF: 1997 **CHAPTER:** 420

BILL NO: A1526

SPONSOR(S): Crecco

DATE INTRODUCED: February 8, 1996

COMMITTEE: **ASSEMBLY:** Law & Public Safety
SENATE: Law & Public Safety

AMENDED DURING PASSAGE: No Assembly Committee Substitute enacted

DATE OF PASSAGE: **ASSEMBLY:** June 17, 1996
SENATE: March 10, 1997

DATE OF APPROVAL: January 19, 1998

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes

COMMITTEE STATEMENT: **ASSEMBLY:** Yes
SENATE: Yes

FISCAL NOTE: Yes

VETO MESSAGE: No

MESSAGE ON SIGNING: No

FOLLOWING WERE PRINTED:

REPORTS: Yes

HEARINGS: No

Report mentioned in statements:

974.90 New Jersey.
S518 Report..., June 19, 1995. Trenton, 1995.
1995 [see pp. 9, 12]

974.90 New Jersey.
S518 Meetings held 12-6-94, 11-1-94, 2-1-95 & 3-15-95.
1994 Trenton, 1994.

KBP:pp

[Passed Both Houses]

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 1526

STATE OF NEW JERSEY

ADOPTED FEBRUARY 3, 1997

Sponsored by Assemblywoman CRECCO, Assemblyman
AZZOLINA, Assemblywoman Heck, Senators Matheussen and
O'Connor

1 AN ACT concerning the Adult Diagnostic and Treatment Center and
2 amending N.J.S.2C:47-4.

3

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

6

7 1. N.J.S.2C:47-4 is amended to read as follows:

8

2C:47-4. Treatment arrangements

9

a. **[The]** Except as provided in subsection b. of this section, the

10 Commissioner of the Department of Corrections, upon commitment of
11 such person, shall provide for his treatment in the Adult Diagnostic
12 and Treatment Center.

13 b. (1) The commissioner may, in his discretion, order the transfer
14 of a person sentenced under this chapter out of the Adult Diagnostic
15 and Treatment Center. **[In the event of such a transfer the conditions**
16 **of confinement and release of such person transferred shall no longer**
17 **be governed by this chapter.]**

18 (2) The commissioner shall order the transfer of a person
19 sentenced under this chapter out of the Adult Diagnostic and
20 Treatment Center under the following circumstances:

21 (a) The person is serving a life sentence without possibility of
22 parole; or

23 (b) The person is not participating in or cooperating with the
24 treatment provided in the Adult Diagnostic and Treatment Center.

25 (3) A person who is transferred pursuant to either paragraph (1)
26 or subparagraph (a) of paragraph (2) of this subsection shall be subject
27 to conditions of confinement, parole and release applicable to persons
28 sentenced to State prison. A person who is transferred pursuant to
29 subparagraph (b) of paragraph (2) of this subsection shall continue to

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 be eligible for parole in accordance with the provisions of
2 N.J.S.2C:47-5, except that the commissioner shall return the person
3 to the Adult Diagnostic and Treatment Center as soon as practicable
4 if the commissioner determines that the person is likely to participate
5 and fully cooperate in the treatment provided therein.

6 c. If **[**, in the opinion of the commissioner, upon the written
7 recommendation of**]** the Special Classification Review Board submits
8 a written recommendation to the commissioner that continued
9 confinement of the person is not necessary, **[he shall]** the
10 commissioner may move before the sentencing court for modification
11 of the sentence originally imposed.

12 (cf: N.J.S.2C:47-4)

13

14 2. This act shall take effect immediately.

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19 Authorizes Commissioner of Corrections to transfer certain ADTC
20 inmates; specifies parole restrictions for inmates transferred for
21 refusing treatment.

ASSEMBLY, No. 1526

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 8, 1996

By Assemblywoman CRECCO

1 AN ACT concerning the Adult Diagnostic and Treatment Center,
2 supplementing chapter 47 of Title 2C of the New Jersey Statutes
3 and amending P.L.1979, c.441.

4

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

7

8 1. (New section) a. Within four years after the effective date of
9 this act, the inmate population of the Adult Diagnostic and Treatment
10 Center shall be permanently reduced to a number not to exceed 60
11 percent of the total inmate population there on the effective date of
12 this act. In each of the first four years following enactment of this act,
13 the commissioner shall reduce the population by a minimum of 10
14 percent of the inmate population of the facility on the effective date of
15 this act. The reduction may be achieved through parole, release at the
16 expiration of a sentence, or transfer to other correctional facilities.

17 b. The commissioner may promulgate rules and regulations
18 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
19 (C.52:14B-1 et seq.) to effectuate the purposes of this act.

20

21 2. (New section) Notwithstanding the provisions of
22 N.J.S.2C:47-4, a person sentenced to the Adult Diagnostic and
23 Treatment Center shall be transferred to another correctional facility,
24 if that person (a) is 60 years of age or older; (b) is serving a life
25 sentence with no possibility of parole; or (c) as certified by a member
26 of the facility's treatment staff, is not motivated in therapy, cannot
27 benefit from therapy or refuses to participate in psychological
28 treatment while serving a sentence there.

29

30 3. (New section) A person transferred from the Adult Diagnostic
31 and Treatment Center to another correctional facility pursuant to
32 P.L. , c. (C.)(now pending before the Legislature as this bill) shall
33 be eligible for parole in accordance with the provisions of
34 N.J.S.2C:47-5; provided, however, commutation time for good

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

Matter underlined thus is new matter.

1 behavior pursuant to N.J.S.2A:164-24 or R.S.30:4-140 and credits for
2 diligent application to work and other institutional assignments
3 pursuant to P.L.1972, c.115 (C.30:8-28.1 et seq.) or R.S.30:4-92,
4 shall not be applicable to him.

5

6 4. Section 7 of P.L.1979, c.441 (C.30:4-123.51) is amended to
7 read as follows:

8 7. Eligibility for parole; computation; notice to inmate;
9 acknowledgement of receipt

10 a. Each adult inmate sentenced to a term of incarceration in a
11 county penal institution, or to a specific term of years at the State
12 Prison or the correctional institution for women shall become primarily
13 eligible for parole after having served any judicial or statutory
14 mandatory minimum term, or one-third of the sentence imposed where
15 no mandatory minimum term has been imposed less commutation time
16 for good behavior pursuant to N.J.S.2A:164-24 or R.S.30:4-140 and
17 credits for diligent application to work and other institutional
18 assignments pursuant to P.L.1972, c.115 (C.30:8-28.1 et seq.) or
19 R.S.30:4-92. Consistent with the provisions of the New Jersey Code
20 of Criminal Justice (N.J.S.2C:11-3, 2C:14-6, 2C:43-6, 2C:43-7),
21 commutation and work credits shall not in any way reduce any judicial
22 or statutory mandatory minimum term and such credits accrued shall
23 only be awarded subsequent to the expiration of the term.

24 b. Each adult inmate sentenced to a term of life imprisonment shall
25 become primarily eligible for parole after having served any judicial or
26 statutory mandatory minimum term, or 25 years where no mandatory
27 minimum term has been imposed less commutation time for good
28 behavior and credits for diligent application to work and other
29 institutional assignments. If an inmate sentenced to a specific term or
30 terms of years is eligible for parole on a date later than the date upon
31 which he would be eligible if a life sentence had been imposed, then in
32 such case the inmate shall be eligible for parole after having served 25
33 years, less commutation time for good behavior and credits for diligent
34 application to work and other institutional assignments. Consistent
35 with the provisions of the New Jersey Code of Criminal Justice
36 (N.J.S.2C:11-3, 2C:14-6, 2C:43-6, 2C:43-7), commutation and work
37 credits shall not in any way reduce any judicial or statutory mandatory
38 minimum term and such credits accrued shall only be awarded
39 subsequent to the expiration of the term.

40 c. Each inmate sentenced to a specific term of years pursuant to the
41 "Controlled Dangerous Substances Act," P.L.1970, c.226 (C.24:21-1
42 through 45) shall become primarily eligible for parole after having
43 served one-third of the sentence imposed less commutation time for
44 good behavior and credits for diligent application to work and other
45 institutional assignments.

46 d. Each adult inmate sentenced to an indeterminate term of years

1 as a young adult offender pursuant to N.J.S.2C:43-5 shall become
2 primarily eligible for parole consideration pursuant to a schedule of
3 primary eligibility dates developed by the board, less adjustment for
4 program participation. In no case shall the board schedule require that
5 the primary parole eligibility date for a young adult offender be greater
6 than the primary parole eligibility date required pursuant to this section
7 for the presumptive term for the crime authorized pursuant to
8 N.J.S.2C:44-1(f).

9 e. Each adult inmate sentenced to the Adult Diagnostic and
10 Treatment Center, Avenel, or transferred therefrom to another
11 correctional facility pursuant to P.L. , c. , (C.)(now pending
12 before the Legislature as this bill) or any other provision of law, shall
13 become primarily eligible for parole upon recommendation by the
14 special classification review board pursuant to N.J.S.2C:47-5, except
15 that no such inmate shall become primarily eligible prior to the
16 expiration of any mandatory or fixed minimum term imposed pursuant
17 to N.J.S.2C:14-6.

18 f. Each juvenile inmate committed to an indeterminate term shall
19 be immediately eligible for parole.

20 g. Each adult inmate of a county jail, workhouse or penitentiary
21 shall become primarily eligible for parole upon service of 60 days of
22 his aggregate sentence or as provided for in subsection a. of this
23 section, whichever is greater. Whenever any such inmate's parole
24 eligibility is within six months of the date of such sentence, the judge
25 shall state such eligibility on the record which shall satisfy all public
26 and inmate notice requirements. The chief executive officer of the
27 institution in which county inmates are held shall generate all reports
28 pursuant to subsection d. of section 10 of P.L.1979, c.441
29 (C.30:4-123.54). The parole board shall have the authority to
30 promulgate time periods applicable to the parole processing of inmates
31 of county penal institutions, except that no inmate may be released
32 prior to the primary eligibility date established by this subsection,
33 unless consented to by the sentencing judge. No inmate sentenced to
34 a specific term of years at the State Prison or the correctional
35 institution for women shall become primarily eligible for parole until
36 service of a full nine months of his aggregate sentence.

37 h. When an inmate is sentenced to more than one term of
38 imprisonment, the primary parole eligibility terms calculated pursuant
39 to this section shall be aggregated by the board for the purpose of
40 determining the primary parole eligibility date, except that no juvenile
41 commitment shall be aggregated with any adult sentence. The board
42 shall promulgate rules and regulations to govern aggregation under
43 this subsection.

44 i. The primary eligibility date shall be computed by a designated
45 representative of the board and made known to the inmate in writing
46 not later than 90 days following the commencement of the sentence.

1 In the case of an inmate sentenced to a county penal institution such
2 notice shall be made pursuant to subsection g. of this section. Each
3 inmate shall be given the opportunity to acknowledge in writing the
4 receipt of such computation. Failure or refusal by the inmate to
5 acknowledge the receipt of such computation shall be recorded by the
6 board but shall not constitute a violation of this subsection.

7 j. Except as provided in this subsection, each inmate sentenced
8 pursuant to N.J.S.2A:113-4 for a term of life imprisonment,
9 N.J.S.2A:164-17 for a fixed minimum and maximum term or
10 N.J.S.2C:1-1(b) shall not be primarily eligible for parole on a date
11 computed pursuant to this section, but shall be primarily eligible on a
12 date computed pursuant to P.L.1948, c.84 (C.30:4-123.1 et seq.),
13 which is continued in effect for this purpose. Inmates classified as
14 second, third or fourth offenders pursuant to section 12 of P.L.1948,
15 c.84 (C.30:4-123.12) shall become primarily eligible for parole after
16 serving one-third, one-half or two-thirds of the maximum sentence
17 imposed, respectively, less in each instance commutation time for
18 good behavior and credits for diligent application to work and other
19 institutional assignments; provided, however, that if the prosecuting
20 attorney or the sentencing court advises the board that the punitive
21 aspects of the sentence imposed on such inmates will not have been
22 fulfilled by the time of parole eligibility calculated pursuant to this
23 subsection, then the inmate shall not become primarily eligible for
24 parole until serving an additional period which shall be one-half of the
25 difference between the primary parole eligibility date calculated
26 pursuant to this subsection and the parole eligibility date calculated
27 pursuant to section 12 of P.L.1948, c.84 (C.30:4-123.12). If the
28 prosecuting attorney or the sentencing court advises the board that the
29 punitive aspects of the sentence have not been fulfilled, such advice
30 need not be supported by reasons and will be deemed conclusive and
31 final. Any such decision shall not be subject to judicial review except
32 to the extent mandated by the New Jersey and United States
33 Constitutions. The board shall, reasonably prior to considering any
34 such case, advise the prosecuting attorney and the sentencing court of
35 all information relevant to such inmate's parole eligibility.

36 (cf: P.L.1982, c.71, s.2)

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38 5. This act shall take effect immediately.

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STATEMENT

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43 This bill originates from the findings of the Joint Legislative Task
44 Force to Study the Adult Diagnostic and Treatment Center at Avenel
45 (ADTC). This bill requires the Commissioner of Corrections to
46 decrease the number of inmates held at the ADTC over the next four

1 years. The facility would hold 40% fewer inmates than it does
2 currently, which would reduce overcrowding as well as treatment staff
3 caseloads.

4 This bill also requires the Commissioner of Corrections to transfer
5 to another correctional facility any inmate of the ADTC who refuses
6 to participate in psychological treatment, commonly known as a
7 "therapy refuser;" who is serving a life sentence with no possibility of
8 parole; who is not motivated in or cannot benefit from therapy, as
9 certified by an ADTC therapist; or who is 60 years of age or older.
10 The ADTC is a specialized correctional facility for sex offenders
11 whose crimes, according to examining psychologists, indicate a pattern
12 of repetitive, compulsive behavior. A specialized treatment program
13 is available for these offenders at the center. If a sex offender refuses
14 to participate in the treatment program, there is no reason for him to
15 remain in the center. The bill's provision for the transfer of such
16 recalcitrant inmates to another correctional facility assures that the
17 ADTC's limited bed space is reserved for inmates who are motivated
18 to participate in its treatment program.

19 The bill further requires that an inmate who is transferred from the
20 ADTC remain subject to the special parole provisions which apply to
21 persons sentenced to the ADTC. Prior to consideration for parole, an
22 ADTC inmate must be adjudged as capable of making an "acceptable
23 social adjustment in the community" by a special classification review
24 board. The inmate then must be approved by the Parole Board as not
25 substantially likely to commit a crime if released.

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30 Requires reduction of inmate population and transfer of inmates
31 refusing treatment at ADTC.

ASSEMBLY LAW AND PUBLIC SAFETY COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 1526

STATE OF NEW JERSEY

DATED: FEBRUARY 3, 1997

The Assembly Law and Public Safety Committee reports favorably Assembly Bill No. 1526 as an Assembly Committee Substitute.

The committee substitute amends N.J.S.2C:47-4 to direct the Commissioner of Corrections to transfer certain inmates from the Adult Diagnostic and Treatment Center (ADTC) into the general prison populations of other State correctional facilities.

Under the provisions of the committee substitute, the commissioner is directed to transfer those ADTC inmates who (1) are serving life sentences without possibility of parole and (2) are not participating or cooperating in an ADTC treatment program.

The substitute also specifies that those ADTC inmates who are transferred either under the general discretionary powers of the commissioner or because they are serving life sentences without possibility of parole are no longer to be governed by the special conditions of confinement, parole and release set forth in chapter 47 of Title 2C of the New Jersey Statutes, but rather those conditions applicable to the general State prison population.

Inmates transferred for refusing to participate in a treatment program, on the other hand, are to remain subject to the special conditions of confinement, parole and release set forth in chapter 47 of Title 2C of the New Jersey Statutes.

The provisions of the committee substitute also authorize the commissioner to return to the ADTC any inmate who has been transferred out of that facility for refusing to participate in a treatment program if the commissioner determines that, henceforth, the inmate is likely to fully cooperate in receiving treatment.

In its present form, N.J.S.2C:47-4 accords the Commissioner of Corrections discretionary authority to transfer inmates from the ADTC to other State correctional facilities. The statute further provides that inmates so transferred are no longer subject to the special conditions of confinement, parole and release set forth in chapter 47 or Title 2C of the New Jersey Statutes, but rather the general conditions of confinement, parole and release applicable to all State prisoners.

SENATE LAW AND PUBLIC SAFETY COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 1526

STATE OF NEW JERSEY

DATED: DECEMBER 11, 1997

The Senate Law and Public Safety Committee reports favorably Assembly Committee Substitute for Assembly Bill No. 1526.

This committee substitute amends N.J.S.2C:47-4 to direct the Commissioner of Corrections to transfer certain inmates from the Adult Diagnostic and Treatment Center (ADTC) into the general prison populations of other State correctional facilities.

Under the provisions of the committee substitute, the commissioner is directed to transfer those ADTC inmates who (1) are serving life sentences without possibility of parole and (2) are not participating or cooperating in an ADTC treatment program.

The substitute also specifies that those ADTC inmates who are transferred either under the general discretionary powers of the commissioner or because they are serving life sentences without possibility of parole are no longer to be governed by the special conditions of confinement, parole and release set forth in chapter 47 of Title 2C of the New Jersey Statutes, but rather those conditions applicable to the general State prison population.

Inmates transferred for refusing to participate in a treatment program, on the other hand, are to remain subject to the special conditions of confinement, parole and release set forth in chapter 47 of Title 2C of the New Jersey Statutes.

The provisions of the committee substitute also authorize the commissioner to return to the ADTC any inmate who has been transferred out of that facility for refusing to participate in a treatment program if the commissioner determines that, henceforth, the inmate is likely to fully cooperate in receiving treatment.

In its present form, N.J.S.2C:47-4 accords the Commissioner of Corrections discretionary authority to transfer inmates from the ADTC to other State correctional facilities. The statute further provides that inmates so transferred are no longer subject to the special conditions of confinement, parole and release set forth in chapter 47 or Title 2C of the New Jersey Statutes, but rather the general conditions of confinement, parole and release applicable to all State prisoners.

This committee substitute originates from the findings of the Joint Legislative Task Force to Study the ADTC. As released by the committee, the substitute is identical to the Senate Committee Substitute for Senate Bill No. 1418.

FISCAL NOTE TO
ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 1526

STATE OF NEW JERSEY

DATED: January 13, 1998

Assembly Committee Substitute for Assembly No. 1526 of 1997 directs the Commissioner of the Department of Corrections to transfer those inmates from the Adult Diagnostic and Treatment Center (ADTC) who (1) are serving life sentences without possibility of parole or (2) are not participating or cooperating in an ADTC treatment program.

The substitute also specifies that those ADTC inmates who are transferred either under the general discretionary powers of the commissioner or because they are serving life sentences without possibility of parole are no longer to be governed by the special conditions of confinement, parole and release set forth in chapter 47 of Title 2C of the New Jersey Statutes, but rather those conditions applicable to the general State prison population. Inmates transferred for refusing to participate in a treatment program would remain subject to the special conditions of confinement, parole and release set forth in chapter 47 of Title 2C of the New Jersey Statutes.

The committee substitute also authorize the commissioner to return to the ADTC any inmate who has been transferred out of that facility for refusing to participate in a treatment program if the commissioner determines that, henceforth, the inmate is likely to fully cooperate in receiving treatment.

The Department of Corrections states that there are currently no inmates at ADTC who are serving life sentences, while there are 40 inmates at the institution who refuse treatment.

The department notes that depending on the actual number of transfers of ADTC inmates to other institutions, the workload of two units would be affected: the Psychological Services contractor and the Special Classification Review Board (SCRB). Semi-annual reviews would be required for each sex offender at the holding institution, and each case would need to be reviewed by the SCRB, in some cases, in person. This would create additional technical/clerical tasks for the SCRB in terms of coordination, scheduling, and processing of reports for various institutions. An additional position would be required to accomplish these duties at an annual salary and fringe benefits cost of about \$32,930.

The department further notes that the bill may result in encouraging treatment refusers to cooperate in their treatment regimen since there would no longer be advantages relative to parole consideration by being transferred into the general population. In

addition, the ability to transfer uncooperative inmates could reduce the number of inmates currently housed in county jail facilities awaiting placement at ADTC. Currently there are 117 offenders awaiting placement at ADTC.

The Office of Legislative Services concurs but notes that for every ADTC inmate that is transferred to the general population, one additional general population offender would be required to remain in a county jail facility. Therefore, there would be no net effect on the county jail waiting list.

This fiscal note has been prepared pursuant to P.L.1980, c.67.