

LEGISLATIVE HISTORY CHECKLIST

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("No early release")

NJSA: 2C:43-7.2

LAWS OF: 1997 CHAPTER: 117

BILL NO: S855

SPONSOR(S): Bennett and others

DATE INTRODUCED: February 26, 1996

COMMITTEE: ASSEMBLY: Appropriations; Law & Public Safety
SENATE: Law & Public Safety

AMENDED DURING PASSAGE: Yes Amendments during passage denoted
Fourth reprint enacted by superscript numbers

DATE OF PASSAGE: ASSEMBLY: June 5, 1997
SENATE: May 16, 1996

DATE OF APPROVAL: June 9, 1997

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes Also attached: statement adopted
5-8-97

COMMITTEE STATEMENT: ASSEMBLY: Yes 3-3-97 & 2-3-97
SENATE: Yes

FISCAL NOTE: Yes

VETO MESSAGE: No

MESSAGE ON SIGNING: No

FOLLOWING WERE PRINTED:
REPORTS: No

HEARINGS: Yes
974.90 New Jersey. Legislature. Senate. Law and Public Safety Committee.
P959 Public hearing on S855, held 4-24-96. Freehold, 1997.
1996

974.90 New Jersey. Governor's Study Commission on Parole.
P959 Report. December, 1996.
1996a [see especially pp. 10-14, 25-27]

KBP:pp

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§2 - C.2C:43-7.2
§3 - C.30:4-123.51b
§1 - Note to §§2,3

P.L. 1997, CHAPTER 117, *approved June 9, 1997*
Senate, No. 855 (*Fourth Reprint*)

1 AN ACT concerning prison sentencing and supplementing P.L.1979,
2 c.441.

3

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

6

7 1. This act shall be known and may be cited as the “No Early
8 Release Act.”

9

10 2. a. ³[Notwithstanding any commutation credits allowed for good
11 behavior and credits earned for diligent application to work and other
12 institutional assignments, or any other provision of law to the contrary,
13 an inmate sentenced] A court imposing a sentence of incarceration³ for
14 a crime of the first or second degree ³[involving violence to the
15 custody of the Department of Corrections]³ ⁴shall fix a minimum term
16 of 85% of the sentence during which the defendant⁴ shall not be
17 eligible for parole ⁴[until the inmate has served not less than 85
18 percent of the court-ordered term of incarceration]⁴ ³if the crime is a
19 violent crime as defined in subsection d. of this section³.

20 b. The provisions of subsection a. of this section shall not ³be
21 construed or applied to³ reduce the time that must be served before

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.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate SLP committee amendments adopted May 2, 1996.

² Assembly ALP committee amendments adopted February 3, 1997.

³ Assembly AAP committee amendments adopted March 3, 1997.

⁴ Assembly floor amendments adopted May 8, 1997.

1 eligibility for parole by an inmate sentenced to a mandatory minimum
2 period of incarceration.

3 c. ³[The Parole Board shall promulgate rules and regulations
4 necessary to carry out the purposes this act pursuant to the
5 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
6 seq.).] Notwithstanding any other provision of law to the contrary and
7 in addition to any other sentence imposed, a court imposing a
8 minimum period of parole ineligibility of 85 percent of the sentence
9 pursuant to this section shall also, unless the court imposes a sentence
10 of lifetime parole supervision pursuant to P.L. , c. (C.)(now
11 pending before the Legislature as Senate Bill No. 524 SCS), impose
12 a five-year term of parole supervision if the defendant is being
13 sentenced for a crime of the first degree, or a three-year term of parole
14 supervision if the defendant is being sentenced for a crime of the
15 second degree. The term of parole supervision shall commence upon
16 the completion of the sentence of incarceration imposed by the court
17 pursuant to subsection a. of this section unless the defendant is serving
18 a sentence of incarceration for another crime at the time he completes
19 the sentence of incarceration imposed pursuant to subsection a., in
20 which case the term of parole supervision shall commence immediately
21 upon the defendant's release from incarceration. During the term of
22 parole supervision the defendant shall remain in release status in the
23 community in the legal custody of the Commissioner of the
24 Department of Corrections and shall be supervised by the Bureau of
25 Parole of the Department of Corrections as if on parole and shall be
26 subject to the provisions and conditions of section 3 of P.L. ,
27 c. (C.)(now pending before the Legislature as this bill).

28 d. For the purposes of this section, "violent crime" means any
29 crime in which the actor causes death, causes serious bodily injury as
30 defined in subsection b. of N.J.S.2C:11-1, or uses or threatens the
31 immediate use of a deadly weapon. "Violent crime" also includes any
32 aggravated sexual assault or sexual assault in which the actor uses, or
33 threatens the immediate use of, physical force.

34 For the purposes of this section, "deadly weapon" means any
35 firearm or other weapon, device, instrument, material or substance,
36 whether animate or inanimate, which in the manner it is used or is
37 intended to be used, is known to be capable of producing death or
38 serious bodily injury.

39 e. A court shall not impose sentence pursuant to this section unless
40 the ground therefor has been established at a hearing after the
41 conviction of the defendant and on written notice to him of the ground
42 proposed. The defendant shall have the right to hear and controvert
43 the evidence against him and to offer evidence upon the issue.³

44
45 ³. a. A person who has been sentenced to a term of parole
46 supervision and is on release status in the community pursuant to

1 section 2 of P.L. , c. (C.)(now pending before the Legislature
2 as this bill) shall, during the term of parole supervision, remain on
3 release status in the community, in the legal custody of the
4 Commissioner of the Department of Corrections, and shall be
5 supervised by the Bureau of Parole of the Department of Corrections
6 as if on parole, and shall be subject to the provisions and conditions
7 set by the appropriate board panel. The appropriate board panel shall
8 have the authority, in accordance with the procedures and standards
9 set forth in sections 15 through 21 of P.L.1979, c.441 (C.30:4-123.59
10 through 30:4-123.65), to revoke the person's release status and return
11 the person to custody for the remainder of the term or until it is
12 determined, in accordance with regulations adopted by the board, that
13 the person is again eligible for release consideration pursuant to
14 section 9 of P.L.1979, c.441 (C.30:4-123.53).

15 b. The Parole Board shall promulgate rules and regulations
16 necessary to carry out the purposes of this act pursuant to the
17 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
18 seq.).³

19
20 ³[3.] 4.³ This act shall take effect immediately ²[¹.and shall be
21 applicable to any person sentenced for a crime of the first or second
22 degree involving violence who becomes eligible for parole after the
23 effective date¹]².

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28 Requires persons convicted of certain crimes to serve at least 85% of
29 the term of incarceration.

SENATE, No. 855

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 26, 1996

By Senator BENNETT

1 AN ACT concerning prison sentencing and supplementing P.L.1979,
2 c.441.

3
4 BE IT ENACTED by the Senate and General Assembly of the State of
5 New Jersey:

6
7 1. This act shall be known and may be cited as the "No Early
8 Release Act."

9
10 2. a. Notwithstanding any commutation credits allowed for good
11 behavior and credits earned for diligent application to work and other
12 institutional assignments, or any other provision of law to the contrary,
13 an inmate sentenced for a crime of the first or second degree involving
14 violence to the custody of the Department of Corrections shall not be
15 eligible for parole until the inmate has served not less than 85 percent
16 of the court-ordered term of incarceration.

17 b. The provisions of subsection a. of this section shall not reduce
18 the time that must be served before eligibility for parole by an inmate
19 sentenced to a mandatory minimum period of incarceration.

20 c. The Parole Board shall promulgate rules and regulations
21 necessary to carry out the purposes this act pursuant to the
22 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
23 seq.).

24
25 3. This act shall take effect immediately.

26
27
28 STATEMENT

29
30 This bill creates the "No Early Release Act" which supplements the
31 "Parole Act of 1979," and is intended to increase prison time for
32 offenders committing the most serious crimes in society. The bill
33 requires that any person convicted of committing a first or second
34 degree crime involving violence serve a minimum of 85 percent of his
35 court-ordered term of incarceration, regardless of the number of

S855

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1 commutation credits, work credits, or minimum custody credits
2 earned.

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7 Requires persons convicted of certain crimes to serve at least 85% of
8 the term of incarceration.

ASSEMBLY LAW AND PUBLIC SAFETY COMMITTEE

STATEMENT TO

[First Reprint]

SENATE, No. 855

with committee amendments

STATE OF NEW JERSEY

DATED: FEBRUARY 3, 1997

The Assembly Law and Public Safety Committee reports favorably and with committee amendments Senate Bill No. 855 (1R).

Senate Bill No. 855 (1R) amends the "Parole Act of 1979," P.L.1979, c.441 (C.30:4-123.45 et seq.) to require that a person convicted of a first or second degree crime involving violence be required to serve, without exception, a minimum of 85 percent of the term of incarceration imposed by the court.

Under the provisions of the bill, any person convicted of a first or second degree crime involving violence would serve a minimum of 85 percent of his court-ordered term of incarceration, regardless of the number of commutation credits, work credits or minimum custody credits earned. Further, the bill would not reduce any mandatory minimum period of parole eligibility.

The committee amendment, technical in nature, was adopted to make the effective date identical to the effective date of companion bill, Assembly Bill No. 1541.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

[Second Reprint] SENATE, No. 855

with Assembly committee amendments

STATE OF NEW JERSEY

DATED: MARCH 3, 1997

The Assembly Appropriations Committee reports favorably Senate Bill No. 855 (2R), with committee amendments.

Senate Bill No.855 (2R), as amended, requires that persons who are sentenced to prison terms for committing crimes of the first and second degree involving violence be required to serve at least 85 percent of the term of incarceration imposed by the court before being eligible for parole.

Unless the court imposes a sentence of lifetime parole supervision pursuant to legislation now pending as Senate Bill No. 524 SCS of 1996, the bill requires the court to impose a five-year term of parole supervision on any defendant being sentenced for a crime of the first degree, or a three-year term of parole supervision on a defendant being sentenced for a crime of the second degree, on a person sentenced pursuant to this bill.

The bill defines "violent crime" as one in which the perpetrator causes death, causes serious bodily injury, or uses or threatens the immediate use of a deadly weapon. "Violent crime" also includes any aggravated sexual assault or sexual assault in which the perpetrator uses, or threatens the immediate use of, physical force. The bill defines a "deadly weapon" as any firearm or other weapon, device, instrument, material or substance, whether animate or inanimate, which in the manner it is used or is intended to be used, is known to be capable of producing death or serious bodily injury.

The bill requires that a court must first conduct a hearing to establish the ground for sentencing a defendant pursuant to the bill's provisions. At the hearing, the defendant would have the right to hear and controvert the evidence.

As amended, this bill is identical to Assembly Bill No. 1541 as amended by this committee.

FISCAL IMPACT:

The Department of Corrections has noted that the bill would substantially increase the length of stay for the affected inmates,

resulting in a significant increase in the adult inmate population. Impact would begin to accrue in the second year after enactment, and full impact of this bill would be achieved after year 18. According to the department the average cost of housing an inmate in a State institution is currently \$26,000 per year. The one-time cost of building additional bed space is about \$80,000 per inmate. No estimate is available of the inmate population affected by the amended bill.

The Department of Corrections has also noted that the bill would eventually yield a reduction in parole supervision caseloads. The timing of this anticipated reduction of caseload and how it would affect the additional institutional operating costs cannot be currently determined. However, assuming that the current parole requirements remain as they are, the savings in parole supervision would be about \$1,250 per supervisee per year.

The department has also noted that while the department could be eligible for partial reimbursement of capital expenditures based in the provisions of the federal Violent Crimes Control and Enforcement Act of 1994, it is not known what percentage of the total amount would be offset by federal funds.

The Department of Corrections was not able to quantify the deterrent effect of the increased sentence on potential offenders, nor the reduction in recidivism because of continued incarceration. Each of these effects would decrease the social costs of crime and reduce total expected Department of Corrections expenditures.

COMMITTEE AMENDMENTS:

The amendments clarify those violent crimes which would be subject to the provisions of the bill, add a term of parole supervision following the defendants' release from incarceration, and require that the court first conduct a hearing to establish the ground for sentencing a defendant pursuant to the bill.

SENATE LAW AND PUBLIC SAFETY COMMITTEE

STATEMENT TO

SENATE, No. 855

with committee amendments

STATE OF NEW JERSEY

DATED: APRIL 24, 1996

The Senate Law and Public Safety Committee reports favorably Senate Bill No. 855, with committee amendments.

This bill creates the "No Early Release Act," which supplements the "Parole Act of 1979" and is intended to increase prison time for offenders committing the most serious crimes in society.

Under the provisions of the bill, any person convicted of a first or second degree crime involving violence would serve a minimum of 85 percent of his court-ordered term of incarceration, regardless of the number of commutation credits, work credits, or minimum custody credits earned. The bill would not reduce any mandatory minimum period of parole eligibility.

The committee amended the bill to provide that its provisions would be applicable to any person sentenced for a crime of the first or second degree involving violence who becomes eligible for parole after the effective date.

Speaker JUD 0022.d cc
Clerk (3) JU 103
Majority Leader SR 077
Minority Leader TR 124
Sponsor of Aa
Sponsor of Bill

ASSEMBLY AMENDMENTS

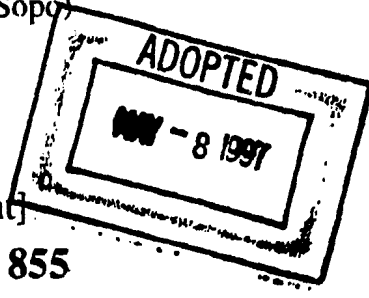
(Proposed By Assemblywoman Allen and
Assemblyman DeSopo)

to

[Third Reprint]

SENATE, No. 855

(Sponsored By Senators Bennett and Kosco)



REPLACE SECTION 2 TO READ:

2. a. ³[Notwithstanding any commutation credits allowed for good behavior and credits earned for diligent application to work and other institutional assignments, or any other provision of law to the contrary, an inmate sentenced] A court imposing a sentence of incarceration³ for a crime of the first or second degree ³[involving violence to the custody of the Department of Corrections]³ ⁴shall fix a minimum term of 85% of the sentence during which the defendant⁴ shall not be eligible for parole ⁴[until the inmate has served not less than 85 percent of the court-ordered term of incarceration]⁴ ³if the crime is a violent crime as defined in subsection d. of this section³.

b. The provisions of subsection a. of this section shall not ³be construed or applied to³ reduce the time that must be served before eligibility for parole by an inmate sentenced to a mandatory minimum period of incarceration.

c. ³[The Parole Board shall promulgate rules and regulations necessary to carry out the purposes this act pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).] Notwithstanding any other provision of law to the contrary and in addition to any other sentence imposed, a court imposing a minimum period of parole ineligibility of 85 percent of the sentence pursuant to this section shall also, unless the court imposes a sentence of lifetime parole supervision pursuant to P.L. , c. (C.) (now pending before the Legislature as Senate Bill No. 524 SCS), impose a five-year term of parole supervision if the defendant is being sentenced for a crime of the first degree, or a three-year term of parole supervision if the defendant is being sentenced for a crime of the second degree. The term of parole supervision shall commence upon the completion of the sentence of incarceration imposed by the court pursuant to subsection a. of this section unless the defendant is serving a sentence of incarceration for another crime at the time he completes the sentence of incarceration

imposed pursuant to subsection a., in which case the term of parole supervision shall commence immediately upon the defendant's release from incarceration. During the term of parole supervision the defendant shall remain in release status in the community in the legal custody of the Commissioner of the Department of Corrections and shall be supervised by the Bureau of Parole of the Department of Corrections as if on parole and shall be subject to the provisions and conditions of section 3 of P.L. 2007, c. 107 (now pending before the Legislature as this bill).

d. For the purposes of this section, "violent crime" means any crime in which the actor causes death, causes serious bodily injury as defined in subsection b. of N.J.S.2C:11-1, or uses or threatens the immediate use of a deadly weapon. "Violent crime" also includes any aggravated sexual assault or sexual assault in which the actor uses, or threatens the immediate use of, physical force.

For the purposes of this section, "deadly weapon" means any firearm or other weapon, device, instrument, material or substance, whether animate or inanimate, which in the manner it is used or is intended to be used, is known to be capable of producing death or serious bodily injury.

e. A court shall not impose sentence pursuant to this section unless the ground therefor has been established at a hearing after the conviction of the defendant and on written notice to him of the ground proposed. The defendant shall have the right to hear and controvert the evidence against him and to offer evidence upon the issue.³

STATEMENT

This bill requires persons convicted of certain violent crimes to serve at least 85% of the term of incarceration. These amendments make technical corrections to clarify the language in section 2, subsection a. of the bill.

FISCAL NOTE TO

[First Reprint]
SENATE, No. 855

STATE OF NEW JERSEY

DATED: OCTOBER 15, 1996

Senate Bill No. 855 (1R) of 1996, the "No Early Release Act" supplements the "Parole Act of 1979". The bill requires that any person convicted of committing a first or second degree crime involving violence serve a minimum of 85 percent of the court-ordered term of incarceration, regardless of the number of commutation credits, work credits, or minimum custody credits earned. The bill would take effect immediately and would be applicable to all inmates who are currently incarcerated.

The Department of Corrections (DOC) states that the original (unamended) version of the bill, which addresses those offenders convicted after the enactment date, would substantially increase the length of stay for the affected inmates, resulting in a significant increase in the adult inmate population. Based on its admissions and length of stay data, the department estimates that the original version of the bill would result in the need to house a minimum of 5,800 more inmates than would be expected under the current statutes and provisions. Impact would begin to accrue in the second year after enactment, and full impact of this bill would be achieved after year 18.

According to the department the average cost of housing an inmate in a State institution is currently \$26,000 per year. The one-time cost of building additional bed space is about \$80,000 per inmate. Under the proposed bill, the State would incur additional ongoing operating costs of \$4 million and one-time capital expenses of \$12.4 million during the first year, \$19.6 million in additional ongoing operating and \$60 million in one-time capital expenses during the second year, and \$23 million in additional ongoing operating and \$72 million in one-time capital expenses during the third year of implementation. By year 2013, the year in which additional costs should stabilize, the State would have incurred additional operating costs of \$151 million per year and one-time capital costs of \$464 million to provide the necessary prison beds. Below is a chart illustrating the incremental and total costs of implementing the bill by year.

**SENATE BILL NO. 855
PROJECTED INCREASE IN COSTS**

Year	Additional Inmates	Capital Costs Per New Bed @ \$80,000	Annual Addl Per Capita Operating Costs @ \$28,000	Total Addl Per Capita Operating Costs
1	0	\$0	\$0	\$0
2	155	\$12,400,000	\$4,030,000	\$4,030,000
3	754	\$60,320,000	\$19,604,000	\$23,634,000
4	903	\$72,240,000	\$23,478,000	\$47,112,000
5	661	\$52,880,000	\$17,188,000	\$64,298,000
6	664	\$53,120,000	\$17,264,000	\$81,582,000
7	552	\$44,160,000	\$14,352,000	\$95,914,000
8	433	\$34,640,000	\$11,258,000	\$107,172,000
9	344	\$27,520,000	\$8,944,000	\$116,116,000
10	211	\$16,880,000	\$5,486,000	\$121,802,000
11	234	\$18,720,000	\$6,084,000	\$127,686,000
12	234	\$18,720,000	\$6,084,000	\$133,770,000
13	188	\$15,040,000	\$4,888,000	\$138,658,000
14	158	\$12,640,000	\$4,108,000	\$142,766,000
15	130	\$10,400,000	\$3,380,000	\$146,146,000
16	112	\$8,960,000	\$2,912,000	\$149,058,000
17	67	\$5,360,000	\$1,742,000	\$150,800,000
18	0	\$0	\$0	\$150,800,000
TOTAL	5,800	\$464,000,000		\$150,800,000

The Department of Corrections also states that ultimately the bill would yield a reduction in the number of offenders assigned to parole supervision caseloads. The timing of this anticipated reduction of caseload and how it would affect the additional institutional operating costs cannot be currently determined. However, assuming that the current parole requirements remain as they are, the savings in parole supervision would be about \$1,250 per inmate per year, thus reducing the total operating costs of the bill by \$7.25 million, to \$143,550,000.

The department further states that while the department could be eligible for partial reimbursement of capital expenditures based in the provisions of the federal Violent Crimes Control and Enforcement Act of 1994, it is not known what percentage of the total amount would be offset by federal funds.

The Office of Legislative Services adds that under the amended version of S855, inmates who are presently incarcerated would also be affected by the bill's provisions. As a result, the costs would be higher than those estimated by the department for the unamended bill and would occur sooner.

The OLS also notes that the Department of Corrections was not able to quantify any deterrent effect of the increased sentence to potential offenders, nor did it take into account the recidivists who

S855 [1R]

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would not re-offend because they would continue to be incarcerated for their first offense. To the extent the enactment of the bill would have a deterrent effect or would reduce recidivism, the cost of the bill might be lower than that estimated.

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



OFFICE OF THE GOVERNOR NEWS RELEASE

CN-004

CONTACT: Pete McDonough
609-777-2600

TRENTON, NJ 08625

RELEASE: Monday,
June 9, 1997

GOV. WHITMAN SIGNS "NO EARLY RELEASE ACT" TO KEEP VIOLENT CRIMINALS BEHIND BARS

Gov. Christie Whitman today demonstrated her commitment to keep criminals behind bars and off New Jersey's streets when she signed the "No Early Release Act" which requires violent criminals to serve a minimum of 85 percent of their prison sentence with no parole.

"Today, in New Jersey our message to criminals is clear: if you commit a violent crime, you won't be walking out the prison gates after serving just a third of your sentence. You will serve hard time," said Gov. Whitman. "By keeping criminals off the streets, this legislation will ensure that New Jersey's neighborhoods are safer and our communities are stronger."

The legislation, which takes effect immediately, requires a court imposing a prison sentence for a violent crime of the first or second degree to fix a minimum term of 85 percent of the sentence without eligibility for parole.

"Violent crime" is defined as any crime in which the defendant causes death, causes serious bodily injury or uses or threatens to use a deadly weapon. It also includes aggravated sexual assault or sexual assault in which the defendant uses or threatens to use a deadly weapon.

Previously, offenders without a mandatory minimum could expect to serve less than half of their sentence and those with mandatory minimum sentences could expect to

serve only about half of their sentence. This legislation will more than double the average time offenders must serve before parole.

Additionally, to ensure that violent criminals who complete their sentence are not released into the community without supervision, the bill provides that such criminals receive post-release parole supervision from the Bureau of Parole. The supervision would last five years for first-degree offenders and three years for second-degree offenders. Under previous law, convicted criminals who served 85 percent of their sentence could have been released without a parole requirement.

"Over the past three years, we have worked hard to make the public's safety from violent criminals our top law enforcement priority and to make New Jersey a place where families can feel secure in their homes and on the streets," said Gov. Whitman. "I enacted laws such as Three Strikes and You're In and Joan's Law to keep violent offenders where they belong -- behind bars."

Throughout her administration, Gov. Whitman has enacted laws to strengthen the state's criminal justice system and lengthen the stay of prisoners behind bars. Gov. Whitman signed Three Strikes and You're In legislation to keep violent three-time offenders behind bars for life. She signed Joan's Law making death or life imprisonment, without parole, the penalty for those who kill a child in conjunction with a sexual offense. She signed Megan's Law -- the first law of its kind in the country -- to require the registry of child molesters and protect the state's children from sexual predators.

The Governor signed the Law Enforcement Officers' Protection Act to eliminate parole for criminals who kill an officer in the line of duty. She enacted truth in sentencing reform to require judges to announce at the time of sentencing the amount of time a convicted criminal must serve before being eligible for parole. Gov. Whitman is expanding prison capacity by more than 3,200 beds with the construction of the new South Woods State Prison in Bridgeton -- providing more space for longer prison stays.

The No Early Release Act, S-855, was sponsored by Senators John Bennett (R-Monmouth) and Louis Kosco (R-Bergen) and Assembly Members Diane Allen (R-Burlington/Camden) and Carmine De Sopo (R-Burlington/Camden).