

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

ASSEMBLY, No. 1986

STATE OF NEW JERSEY  
218th LEGISLATURE

DATED: DECEMBER 11, 2018

SUMMARY

- Synopsis:** “Earn Your Way Out Act”; requires DOC to develop inmate reentry plan; establishes administrative parole release for certain inmates; requires study and report by DOC on fiscal impact.
- Type of Impact:** General Fund savings and expenditure.
- Agencies Affected:** Department of Corrections, State Parole Board.

Office of Legislative Services Estimate

Fiscal Impact	Year 1	Year 2	Year 3
State Cost	Indeterminate – See comments below		

- The Office of Legislative Services (OLS) concludes that enactment of the bill would result in indeterminate costs and savings.
- Although expenditure reductions could result from moving inmates from prison to parole and reducing the number of parole hearings required for parole, under the bill, some portion of these savings must be made available for reallocation to the Office of Victim Services.
- The OLS notes that the bill requires the Department of Corrections (DOC) to analyze the cost to the State for the initial implementation and annual operating cost of the program and estimate any cost savings that may be realized from enactment. Most of the provisions of the bill will take effect three months after enactment. However, the Division of Reentry and Rehabilitation Services will be established in the DOC only under the following circumstances: 1) the Division of Reentry and Rehabilitation Services will be established on the first day of the sixteenth month following enactment if the DOC determines in its report that there will be no additional net costs to the department on a recurring fiscal year basis or establishment of the division is cost-neutral within the department; or 2) if the report concludes that there is a cost, the Division of Reentry and Rehabilitative Services would be established upon the effective date of an enactment by law of an appropriation of funds for the express purpose of the implementation of the division.

## **BILL DESCRIPTION**

This bill, entitled “Earn Your Way Out Act,” implements various corrections and parole reforms, including: requiring the DOC to establish a reentry division responsible for developing a reentry plan for each inmate; establishing administrative parole release for certain inmates; providing for parole compliance credits; creating an inmate disciplinary database; and mandating an impact study of the bill’s reforms by an institution of higher education’s criminal justice program. The bill also requires the DOC to conduct a study and issue a report concerning the fiscal impact of the bill’s provisions. Under the bill, the Commissioner of Corrections is required to establish a Division of Reentry and Rehabilitative Services to coordinate reentry preparation and other rehabilitative services within all State correctional facilities and to act as a liaison to the State Parole Board. Staff within the division is responsible for developing and implementing an individualized, comprehensive reentry plan designed to prepare each inmate for successful integration as a productive, law-abiding citizen upon release.

The bill also establishes administrative parole release. Under the bill, administrative parole release is available to an adult inmate who has met the criteria set forth in the bill at the time of primary or subsequent parole eligibility. The release occurs after a hearing officer reviews the preparole report of an inmate and the inmate is certified for release. A parole consideration hearing is not required for administrative parole release.

Under current law, an adult inmate is released on parole at the time of parole eligibility, unless the inmate has failed to cooperate in his or her own rehabilitation or there is a reasonable expectation that the inmate will violate conditions of parole.

The bill provides that an adult inmate will be administratively released on parole at the time of primary or subsequent parole eligibility if:

- 1) the inmate has not been convicted of a violent crime under the No Early Release Act, a sex offense under Megan’s Law, or a sexually violent offense;
- 2) the inmate has not committed any prohibited acts required to be reported to the county prosecutor pursuant to regulations promulgated by the Commissioner of Corrections that resulted in a conviction during the current term of incarceration, or any serious disciplinary infraction, as designated in regulations to be a prohibited act that is considered the most serious and results in the most severe sanctions, within the previous two years;
- 3) the inmate has completed relevant rehabilitation programs during incarceration, or made application to participate in these programs but was unable to complete such programs or denied access because of circumstances beyond the inmate’s control; and
- 4) crime victims have received notification as required by current law.

Any denial of administrative parole release is to be appealable in accordance with the parole appeal procedures under current law.

A parolee released on administrative parole release is to remain in the legal custody of the Commissioner of Corrections, be supervised by the Division of Parole of the State Parole Board, and be subject to the provisions and conditions established by the appropriate board panel. If the parolee violated a condition of parole, the parole may be revoked and the parolee returned to custody.

For any inmate who is denied parole, the bill requires the Parole Board to state on the record the reasons for the denial, specifically providing evidence to support the denial based on factors that may be deemed to be subjective, as well as the reasons for the established future parole eligibility date.

The bill also establishes parole compliance credits to reduce the term of parole. All parolees, except those who are ineligible for parole reductions, may earn five days for each month the parolee remains in compliance with the conditions of parole and does not commit a serious or persistent infraction (not overturned by appeal or administrative review).

Additionally, with respect to periods of incarceration, the bill provides that inmates may be awarded commutation credits following arrest for time served in a county jail. Currently, commutation credits are not granted to inmates who serve time in a county jail prior to serving time in a State correctional institution.

The bill directs the Commissioner of Corrections to establish and maintain a centralized database of information contained in each disciplinary report prepared by a corrections officer in response to an inmate committing a prohibited act, required to be reported to the county prosecutor pursuant to regulations promulgated by the commissioner, that resulted in a conviction.

The Commissioner of Corrections also is required to allocate a portion of any cost savings realized from the bill's enactment to the Office of Victim Services for the operating costs of the Focus on the Victim Program and to other services to facilitate successful reentry.

The bill requires a study to be conducted by a criminal justice program at a four-year public institution of higher education in this State to determine the impact that administrative parole release, as established in the bill, has on the inmate population. The study would specifically focus on those inmates whose primary parole eligibility date was within the five years immediately preceding and the five years immediately following the bill's date of enactment.

In addition, the bill requires the Commissioner of Corrections, in consultation with the Chairman of the State Parole Board, to conduct a study to determine the fiscal impact of establishing a Division of Reentry and Rehabilitative Services. In conducting the study, the commissioner is required to analyze the costs to the State resulting from initial implementation and annual operating expenditures resulting from the establishment of a division, and estimate any cost savings that may be realized from enactment of the bill, such as from administrative parole of inmates.

The bill requires the commissioner to issue a report to the Governor and the Legislature no later than one year following the date of enactment. The report is required to include, at a minimum: 1) a determination of whether the establishment of a Division of Reentry and Rehabilitative Services, and the responsibilities associated with establishing the division, will result in additional net costs to the department on a recurring fiscal year basis or whether the provisions are cost-neutral within the department; and 2) if it is determined that it will result in additional net costs to the department, the report is to include an itemized list of the type and amount of the additional net costs.

This bill is to take effect on the first day of the third month following enactment. But the establishment of the reentry division is to take effect either: on the first day of the sixteenth month following enactment if the report concludes that establishment of the reentry division will result in no additional net costs to the department on a recurring fiscal year basis or is cost-neutral or, if the report concludes otherwise, upon the effective date of an enactment by law of an appropriation of funds for the express purpose of establishing the reentry division.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

#### **State Parole Board**

None received.

#### **Department of Corrections**

None received.

## OFFICE OF LEGISLATIVE SERVICES

The OLS concludes that enactment of the bill would result in an indeterminate impact on State expenditures.

Although expenditure reductions could result from moving inmates from prison to parole and reducing the number of parole hearings required for parole, under the bill, some portion of these savings must be made available for reallocation to the Office of Victim Services. The OLS notes that according to ongoing available data provided by the DOC the average annual cost to house an inmate in a State prison facility totals \$45,000. The annual marginal cost for food, wages and clothing totals about \$2,610 per inmate.

The OLS notes that the bill requires the DOC to analyze the cost to the State for the initial implementation and annual operating cost of the program and estimate any cost savings that may be realized from enactment. Most of the provisions of the bill will take effect three months after enactment. However, the Division of Reentry and Rehabilitation Services will be established in the DOC only under the following circumstances: 1) the Division of Reentry and Rehabilitation Services will be established on the first day of the sixteenth month following enactment if the DOC determines in its report that there will be no additional net costs to the department on a recurring fiscal year basis or establishment of the division is cost-neutral within the department; or 2) if the report concludes that there is a cost, the Division of Reentry and Rehabilitative Services would be established upon the effective date of an enactment by law of an appropriation of funds for the express purpose of the implementation of the division.

According to the bill, other aspects of the program will take effect on the first day of the third month following enactment:

1) Administrative parole without a parole hearing would be granted to eligible inmates resulting in potential savings in reducing parole board hearings.

2) Parole compliance credits would be awarded to eligible parolees resulting in potential savings by reducing parole time.

3) A centralized database on inmate disciplinary reports would be developed resulting in indeterminate cost.

4) Inmate compliance credits would begin at time of arrest for time served in a county jail rather than time of incarceration, resulting in potential savings by reducing the amount of time served for an inmate to reach his or her parole eligibility date.

*Section:           Judiciary*

*Analyst:         Sarita Welsh*  
*Associate Counsel*

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

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