

ASSEMBLY LAW AND PUBLIC SAFETY COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1986

with committee amendments

STATE OF NEW JERSEY

DATED: OCTOBER 15, 2018

The Assembly Law and Public Safety Committee reports favorably and with committee amendments Assembly Bill No. 1986.

As amended and reported by the committee, Assembly Bill No. 1986, entitled the “Earn Your Way Out Act,” implements various corrections and parole reforms, including: requiring the Department of Corrections (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 amended bill also requires the DOC to conduct a study and issue a report concerning the fiscal impact of the bill’s provisions.

Under the amended 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 release.

The amended bill establishes administrative parole release. Administrative parole release is available to an adult inmate who has met certain criteria at the time of primary or subsequent parole eligibility:

- 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 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 or denied access because of circumstances beyond the inmate's control; and

4) crime victims have received notification.

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. 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 conditions established by the appropriate board panel. If the parolee violates a condition of parole, the parole may be revoked and the parolee returned to custody.

For any inmate who is denied parole, the amended 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 subjective, as well as the reasons for the established future parole eligibility date.

The amended bill establishes parole compliance credits to reduce the term of parole. All parolees, except those who are ineligible for parole reductions, may earn one day for every six days of parole supervision the person has completed. Parole compliance credits awarded pursuant under the amended bill cease to accrue upon the issuance of a warrant by the State Parole Board and initiation of parole revocation proceedings and any credits earned are to be forfeited upon the revocation of parole. Any compliance credits awarded under the amended bill that are based on actions for which parole revocation proceedings were initiated, but did not result in a revocation of parole and return to custody, are to be forfeited upon a determination by the board panel or board that the actions for which compliance credits were awarded violated a condition of parole.

Additionally, with respect to periods of incarceration, the amended bill provides that inmates may be awarded commutation credits following arrest for time served in a county jail.

The amended 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 that resulted in a conviction.

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

The amended 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 has

on the inmate population, to focus on those inmates whose primary parole eligibility date was within the five years immediately preceding and the five years immediately following the amended bill's date of enactment.

The amended 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 amended bill, such as from administrative parole of inmates.

The amended bill requires the Commissioner of Corrections 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 will result in additional net costs to the department, or are cost-neutral, on a recurring fiscal year basis; 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 amended 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.

As amended and reported by the committee, Assembly Bill No. 1986 is identical to Senate Bill No. 761 (1R) which also was amended and reported on this date.

This bill was pre-filed for introduction in the 2018-2019 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.

COMMITTEE AMENDMENTS

The committee amended the bill to:

- 1) provide that all parolees, except those who are ineligible for parole reductions, may earn one day for every six days of parole supervision the person has completed; as introduced, the bill provided that parolees may earn a credit of five days for each month the parolee is in compliance with the conditions of parole and does not commit a serious or persistent infraction (not overturned by appeal or administrative review);

- 2) provide that parole compliance credits awarded under the bill cease to accrue upon the issuance of a warrant by the State Parole Board and initiation of parole revocation proceedings;
- 3) provide that any credits earned are to be forfeited upon the revocation of parole and any compliance credits awarded under the bill that are based on actions for which parole revocation proceedings were initiated, but did not result in a revocation of parole and return to custody, are to be forfeited upon a determination by the board panel or board that the actions for which compliance credits were awarded violated a condition of parole; and
- 4) make technical changes to the bill.