

# ASSEMBLY JOINT RESOLUTION

No. 134

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## STATE OF NEW JERSEY

218th LEGISLATURE

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INTRODUCED JUNE 4, 2018

**Sponsored by:**

**Assemblywoman VALERIE VAINIERI HUTTLE**

**District 37 (Bergen)**

**Assemblywoman YVONNE LOPEZ**

**District 19 (Middlesex)**

**Assemblywoman ANNETTE QUIJANO**

**District 20 (Union)**

**SYNOPSIS**

Creates commission to study sexual assault, misconduct, and harassment by staff against inmates of Edna Mahan Correctional Facility for Women.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 6/8/2018)**

1   **A JOINT RESOLUTION** creating a commission to study sexual  
2       assault, misconduct, and harassment in this State’s correctional  
3       facility for women.  
4  
5   **WHEREAS**, The Edna Mahan Correctional Facility for Women  
6       (Edna Mahan) is the only all-female correctional facility in this  
7       State in which more than 600 adult female offenders currently  
8       are incarcerated; and  
9   **WHEREAS**, Eight employees at Edna Mahan were terminated for  
10       sexual misconduct between 2010 and 2016; three in 2010 and  
11       five in 2016; six employees have been criminally charged with  
12       sexual abuse and official misconduct in the last two years; and  
13       the Attorney General subsequently has hired legal counsel to  
14       analyze the “administrative protocols and investigatory  
15       responses” at Edna Mahan; and  
16   **WHEREAS**, In January 2017, the Hunterdon County Prosecutor’s  
17       Office announced as part of an “ongoing investigation” that four  
18       Edna Mahan corrections officers were indicted for a total of 26  
19       counts involving sexual abuse and official misconduct; and  
20   **WHEREAS**, At least one corrections officer and a trade instructor  
21       employed at Edna Mahan have been convicted of official  
22       misconduct; and  
23   **WHEREAS**, In February 2018, based on allegations that a corrections  
24       officer engaged in a sexual relationship with three inmates, the  
25       Hunterdon County Prosecutor’s Office charged the officer with  
26       seven counts of second degree official misconduct, two counts of  
27       second degree sexual assault, two counts of second degree  
28       conspiracy to commit sexual assault, one count of second degree  
29       pattern of official misconduct, and three counts of fourth degree  
30       criminal sexual contact; and  
31   **WHEREAS**, Most recently, on May 9, 2018, a Hunterdon County  
32       jury found a senior corrections officer at Edna Mahan guilty of  
33       five counts of sexual assault, criminal sexual contact, and official  
34       misconduct; and  
35   **WHEREAS**, At least five civil lawsuits recently have been filed by  
36       Edna Mahan inmates against the Department of Corrections  
37       (DOC), corrections officers, and others, claiming sexual assault  
38       and sexual harassment: one in November 2017 in the Superior  
39       Court of New Jersey-Law Division, Hunterdon County; two in  
40       December 2017 in the Superior Court of New Jersey-Law  
41       Division, Mercer County, including a class action lawsuit  
42       claiming systemic, inappropriate, and illegal treatment of the  
43       plaintiff inmates resulting from a long-standing, prison-wide  
44       culture of sexual abuse; one in December 2017 in the United  
45       States District Court, District of New Jersey; and one in February  
46       2018 in the Superior Court of New Jersey-Law Division,  
47       Hunterdon County; and

1   **WHEREAS**, The DOC has adopted a policy of “Zero Tolerance of  
2   Prison Sexual Assault” as required under the federal Prison Rape  
3   Elimination Act of 2003 (PREA) pursuant to which sexual  
4   misconduct reporting and investigatory procedures have been  
5   established, unscheduled tours are being conducted by supervisory  
6   staff to detect unusual or unwarranted staff behavior, and  
7   employees are receiving pre-service and annual in-service training  
8   on sexual assault and sexual misconduct; and

9   **WHEREAS**, The DOC has installed updated camera systems designed  
10   to eliminate “blind spots” where sexual assault and sexual  
11   misconduct may go undetected; and

12   **WHEREAS**, DOC facilities undergo certain audits to ensure compliance  
13   with federal PREA standards and an audit in 2016 determined that  
14   Edna Mahan complied with all relevant federal standards and  
15   exceeded those standards with respect to employee training; and

16   **WHEREAS**, Notwithstanding the audit’s findings, the DOC’s actions to  
17   combat sexual assault and sexual misconduct in State correctional  
18   facilities, and the safety and security of inmates in Edna Mahan  
19   remains an on-going problem that must be addressed; and

20   **WHEREAS**, Based on the past and present criminal convictions,  
21   pending criminal charges, and civil lawsuits against Edna Mahan  
22   staff and the DOC, it is fitting and proper for the Legislature to  
23   establish a commission to identify the causes and consequences of  
24   sexual assault in Edna Mahan and analyze current DOC policy and  
25   procedures to determine how they can be modified to improve the  
26   safety and well-being of the inmates incarcerated there; now,  
27   therefore,

28

29    **BE IT RESOLVED** *by the Senate and General Assembly of the*  
30    *State of New Jersey:*

31

32    1. There is established the “Commission to Protect Inmates in  
33    the Edna Mahan Correctional Facility for Women from Sexual  
34    Assault and Sexual Misconduct.” The commission shall consist of  
35    the following 17 members:

36    a. four legislative members, who shall include two members of  
37    the Senate, who shall not be of same political party, and two  
38    members of the General Assembly, who shall not be of the same  
39    political party. The President of the Senate, the Speaker of the  
40    General Assembly, the Minority Leader of the Senate, and the  
41    Minority Leader of the General Assembly each shall appoint one  
42    legislative member;

43    b. four ex officio members or their designees, who shall  
44    include the following: the Commissioner of Corrections, the  
45    Attorney General, the Director of the Division on Women in the  
46    Department of Children and Families, and the Public Defender.

47    c. nine public members appointed by the Governor, who shall  
48    include the following: a county prosecutor who has been

1 recommended by the County Prosecutors Association of the State of  
2 New Jersey, a victims' rights advocate, a representative of an  
3 organization that defends civil rights or promotes social justice, a  
4 faculty member of a college or university located in this State with  
5 expertise in women's issues, a representative of a collective  
6 bargaining unit representing correctional police officers, a  
7 representative of an organization dedicated to ending sexual  
8 violence, a person with expertise on the PREA, a representative of a  
9 Quaker organization promoting lasting peace with justice, and a  
10 representative of an organization working for racial, social, and  
11 economic justice, and greater unity in the community.

12

13 2. a. The commission shall organize within 30 days of the  
14 appointment of its members. The commission shall elect a  
15 chairperson from among its members, and the chairperson shall  
16 select a secretary who need not be a member of the commission.

17 b. The commission may meet at the call of its chairperson at  
18 the times and in the places it may deem appropriate and necessary  
19 to fulfill its duties, and may conduct public hearings at any place it  
20 shall designate.

21 c. The commission may request at these hearings the  
22 appearance of officials of any State agency or political subdivision  
23 of the State and may solicit testimony of interested groups and the  
24 general public.

25 d. The commission shall be entitled to call to its assistance and  
26 avail itself of the services of the employees of any State, county, or  
27 municipal department, board, bureau, commission, or agency as it  
28 may require and as may be available to it for its purposes, including  
29 a State university or college, and to employ stenographic and  
30 clerical assistance and incur traveling and other miscellaneous  
31 expenses necessary to perform its duties, within the limits of funds  
32 appropriated or otherwise made available to it for its purposes.

33 e. Seven members of the commission shall constitute a quorum  
34 for the transaction of business.

35 f. Members of the commission shall serve without  
36 compensation, but shall be reimbursed for necessary expenses  
37 actually incurred in the performance of their duties as members of  
38 the commission.

39

40 3. The commission shall examine issues relating to official  
41 misconduct convictions, pending criminal charges, and civil  
42 allegations by Edna Mahan inmates of sexual assault, sexual  
43 misconduct, and sexual harassment against correctional police  
44 officers, other staff members, contractors, and volunteers working  
45 in the facility. The commission specifically shall:

46 a. assess the degree of the facility's compliance with the  
47 provisions of PREA, including the PREA audit process and whether  
48 these audits should be unannounced, and determine how current

- 1 standards can be strengthened to further protect the inmates from  
2 sexual assault and sexual misconduct;
- 3 b. ascertain the current policy and procedures for investigating  
4 allegations by an inmate of sexual assault and sexual misconduct  
5 against correctional police officers, other staff members,  
6 contractors, and volunteers, including, but not limited to:
- 7 (1) the current means of reporting allegations of sexual  
8 misconduct, including complaints made via existing hotlines, and  
9 whether the allegations should be reported to a neutral third party  
10 that is not an employee of the DOC;
- 11 (2) the parameters governing the investigation of a complaint  
12 and how it is determined if an allegation is substantiated or  
13 unsubstantiated and whether the Special Investigations Division of  
14 the DOC can fairly and impartially conduct these investigations;
- 15 (3) whether the inmates' due process rights are being protected  
16 during the investigation;
- 17 (4) how the facility prevents retaliation by a DOC employee  
18 against whom there is an allegation of sexual misconduct or other  
19 criminal act and whether the employee is or should be suspended,  
20 either with or without pay, pending the completion of an  
21 investigation; and
- 22 (5) whether an inmate is receiving adequate services to deal  
23 with the trauma resulting from the sexual misconduct or other  
24 criminal act of the staff;
- 25 c. explore the feasibility of increasing the female to male staff  
26 ratio in the facility and determine if the current policy governing  
27 cross gender searches and surveillance should include further  
28 protections for female inmates;
- 29 d. consider whether it would be appropriate to establish a  
30 citizen oversight board to monitor the facility;
- 31 e. research the availability of additional training and technical  
32 assistance from the PREA Research Center; and
- 33 f. study any other issue it deems relevant to enhance the safety  
34 and security of the inmates in the facility.
- 35
- 36 4. The commission shall prepare and submit to the Governor  
37 and to the Legislature pursuant to section 2 of P.L.1991, c.164  
38 (C.52:14-19.1) a preliminary report of its findings and  
39 recommendations no later than six months after the organizational  
40 meeting of the commission, and a final report, including legislative  
41 proposals, no later than one year after the organizational meeting.  
42 The commission shall expire upon submission of the final report,  
43 unless it deems further deliberations are necessary, in which case it  
44 may be extended for two subsequent periods of six months.
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- 46 5. This joint resolution shall take effect immediately.

STATEMENT

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This joint resolution establishes the “Commission to Protect Inmates in the Edna Mahan Correctional Facility for Women from Sexual Assault and Sexual Misconduct.”

The 17-member commission is to be comprised of two Senators from different parties and two members of the General Assembly, also of different parties, as well four ex officio members or their designees, including the Commissioner of Corrections, the Attorney General, the Director of the Division on Women, and the Public Defender. The nine public members that are to be appointed by the Governor are to include: a county prosecutor recommended by the County Prosecutors Association, a victims’ rights advocate, a representative of an organization that defends civil rights or promotes social justice, a faculty member of a college or university located in this State with expertise in women’s issues, a representative of a collective bargaining unit representing correctional police officers, a representative of an organization dedicated to ending sexual violence, a person with expertise on the PREA, a representative of a Quaker organization promoting lasting peace with justice, and a representative of an organization working for racial, social, and economic justice, as well as greater unity in the community.

The commission is charged with examining issues relating to sexual misconduct convictions, pending criminal charges, and civil allegations by Edna Mahan inmates of sexual assault, sexual misconduct, and sexual harassment against correctional police officers, other staff members, contractors, and volunteers working in the facility. The bill specifically directs the commission to:

(1) assess the degree of the facility’s compliance with the provisions of the federal Prison Rape Elimination Act (PREA), including the PREA audit process and whether these audits should be unannounced, and determine how current standards can be strengthened to further protect the inmates from sexual assault and sexual misconduct;

(2) ascertain the current policy and procedures for investigating allegations by an inmate of sexual assault, sexual misconduct, and other criminal acts by correctional police officers, other staff members, contractors, and volunteers including the current means of reporting these allegations and whether they should be reported to a neutral third party that is not an employee of the DOC, including complaints made via existing hotlines; the parameters governing the investigation of the complaint and how it is determined if an allegation is substantiated or unsubstantiated and whether the Special Investigations Division of the DOC can fairly and impartially conduct these investigations; whether the inmates’ due process rights are being protected during the investigation; how the facility prevents retaliation by a DOC employee against whom

1 there is an allegation of sexual misconduct and whether the  
2 employee is or should be suspended, either with or without pay; and  
3 whether an inmate is receiving adequate services to deal with the  
4 trauma resulting from the sexual misconduct;

5 (3) explore the feasibility of increasing the female to male staff  
6 ratio in the facility and determine if the current policy governing  
7 cross gender searches and surveillance should include further  
8 protections for inmates;

9 (4) consider whether it would be appropriate to establish a  
10 citizen oversight board to monitor the facility;

11 (5) research the availability of additional training and technical  
12 assistance from the PREA Research Center; and

13 (6) study any other issue it deems relevant to enhance the safety  
14 and security of female inmates in the facility.

15 The commission is required to organize within 30 days of the  
16 appointment of its members. The commission is to select a  
17 chairperson from among its members. Seven members of the  
18 commission would constitute a quorum for the transaction of  
19 business. Members of the commission are to serve without  
20 compensation, but they are to be reimbursed for necessary expenses  
21 incurred in performing their duties for the commission.

22 The commission is required to issue to the Governor and the  
23 Legislature a preliminary report of its findings and  
24 recommendations six months from the commission's organizational  
25 meeting and a final report, including legislative proposals, within  
26 one year of the meeting. The commission would expire upon  
27 submission of the final report, unless it deems further deliberations  
28 are necessary, in which case it may be extended for two subsequent  
29 periods of six months.

30 This bill is in response to past and present criminal convictions  
31 and pending criminal charges against Edna Mahan corrections  
32 officers and other employees, as well as allegations of sexual  
33 harassment and civil rights violations by Edna Mahan inmates.  
34 Despite current DOC policies to comply with the PREA, an  
35 increasing number of Edna Mahan employees have been convicted  
36 or are under criminal investigation for sexual assault and other  
37 crimes and inmates have filed various civil lawsuits against them.  
38 Therefore, it is fitting and proper for the Legislature to establish a  
39 commission to identify the causes and consequences of sexual  
40 assault in Edna Mahan and analyze current DOC policy and  
41 procedures to determine how they can be modified to improve the  
42 safety and well-being of the inmates serving their sentences at Edna  
43 Mahan.