

SENATE, No. 1681

STATE OF NEW JERSEY
218th LEGISLATURE

INTRODUCED FEBRUARY 5, 2018

Sponsored by:

Senator JEFF VAN DREW

District 1 (Atlantic, Cape May and Cumberland)

SYNOPSIS

Requires inmates with sufficient means to pay their incarceration costs.

CURRENT VERSION OF TEXT

As introduced.

WITHDRAWN



1 AN ACT requiring certain inmates to pay the cost of their
2 incarceration and supplementing Title 30 of the Revised Statutes.

3

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

6

7 1. a. The Commissioner of Corrections shall establish and
8 collect a fee to cover the costs of confinement for each year that a
9 person is committed to the custody of the Department of
10 Corrections.

11 b. The fee established in subsection a. of this section shall be
12 equivalent to the average cost to the department of incarcerating an
13 inmate for one year. This fee shall be prorated with respect to
14 persons incarcerated for 334 days or less. The calculation of the
15 number of days of incarceration shall include time served prior to
16 conviction.

17 c. The determination of an inmate's assets, liabilities, and
18 dependents for the purposes of this act shall be ascertained from
19 information contained in the presentence investigation report and
20 findings and orders of the sentencing court.

21 d. An inmate whose income level is below \$150,000 is exempt
22 from the provisions of this act. For the purposes of this section,
23 "income level" means the average income reported by the inmate,
24 both taxable and nontaxable, in the four years immediately
25 preceding the inmate's incarceration. If the inmate filed a joint tax
26 return during any of those four years, the income level shall be
27 determined by utilizing only 50 percent of that joint income in any
28 year.

29 e. If the inmate's financial situation changes subsequent to the
30 preparation of the presentence investigation report, the
31 commissioner shall have discretion to waive the fee or impose a
32 lesser fee if the inmate demonstrates to the commissioner's
33 satisfaction:

34 (1) that the inmate is unable to pay the fee and is unlikely to
35 become able to pay; or

36 (2) that imposition of the fee would unduly burden the inmate's
37 dependents.

38 f. Fees collected pursuant to this section may be used to
39 enhance alcohol and drug abuse prevention programs.

40 g. The commissioner shall be responsible for establishing and
41 collecting the fee covering the costs of confinement for any inmate
42 confined in a facility defined in section 2 of P.L.1969, c.22 (C.30:4-
43 91.2).

44

45 2. a. The State shall have a lien against the property and
46 income of each inmate confined in a State correctional institution
47 for the amount of the fee established in section 1 of this act.
48 Nothing herein shall preclude the State from recovering for any
49 costs of confinement not covered by any lien.

1 b. To perfect the lien, the State Treasurer or commissioner may
2 issue a certificate to the clerk of the Superior Court stating that the
3 person identified in the certificate is indebted under the provisions
4 of this act in an amount as shall be stated in the certificate. The
5 certificate shall reference the statute under which the indebtedness
6 arises. Thereupon the clerk shall immediately enter upon the record
7 of docketed judgments the name and date of birth of the inmate as
8 debtor; the State as creditor; the address of the inmate if shown in
9 the certificate; the amount of the debt so certified; a reference to the
10 statute under which the debt is assessed; and the date of making
11 such entries. The docketing of the certificate shall have the same
12 force and effect as a civil judgment docketed in the Superior Court
13 and the State shall have all the remedies and may take all of the
14 proceedings for the collection of the debt which may be had or
15 taken upon the recovery of a judgment in action, but without
16 prejudice to any right to appeal. Upon entry by the clerk of the
17 certificate in the record of docketed judgments in accordance with
18 the provisions of this subsection, interest in the amount specified by
19 court rule for post-judgment interest shall accrue from the date of
20 the docketing of the certificate; provided, however, payment of the
21 interest may be waived by the State Treasurer. In the event that the
22 debt remains unpaid following the issuance of the certificate of debt
23 and the State Treasurer takes any further collections action,
24 including referral of the matter to the Attorney General or his
25 designee, the fee imposed in lieu of the actual cost of collection
26 may be 20% of the debt or \$200, whichever is greater.

27 c. The clerk of the Superior Court shall enter the certificate of
28 debt in the Civil Judgment and Order Docket, as provided in the
29 Rules of Court.

30 All certificates of debt and other papers incidental thereto
31 required for the purposes of this section shall be received and
32 recorded by the clerk of the Superior Court, without payment of
33 fees.

34 d. To discharge any lien or liens filed pursuant to this section,
35 the State Treasurer or his duly constituted agent shall file with the
36 clerk of the Superior Court, a duly acknowledged certificate setting
37 forth the fact that the lien of record should be discharged.

38 The State Treasurer is authorized to compromise for settlement
39 any lien filed under the provisions of this section for costs of an
40 inmate's confinement. A memorandum of compromise and
41 settlement signed by the State Treasurer shall be sufficient
42 authorization for a complete discharge of the lien.

43 e. Any person desiring to secure immediate discharge of any
44 lien may deposit with the court cash in an amount sufficient to
45 cover the amount of the lien, or post a bond in an amount and with
46 sureties approved by the court. Upon proper notice to the State of
47 the deposit or bond, a satisfaction of the lien shall be filed forthwith
48 with the clerk of the Superior Court.

49 f. Any person affected in any manner, whether directly or

1 indirectly by any lien filed under the provisions of this section, and
2 desiring to examine the validity of the lien or the facts and
3 circumstances surrounding the entry of the lien, may do so in an
4 action brought in the county where the lien was filed. The action
5 shall be brought against the State and the court may proceed in the
6 action in a summary manner and enter judgment as it may deem
7 appropriate.

8
9 3. This act shall take effect on the first day of the fourth month
10 following enactment.

11
12 STATEMENT

13
14 This bill requires the Commissioner of Corrections to establish
15 and collect a fee each year from inmates in State correctional
16 facilities to pay for the costs of their incarceration. Under the bill,
17 an inmate whose income level is less than \$150,000 per year is
18 exempt from paying the fee. The calculation of the inmate's
19 income level would be based on the average of both taxable and
20 nontaxable income earned in the four years immediately preceding
21 the inmate's incarceration.

22 The determination of an inmate's assets, liabilities, and
23 dependents would be based on information contained in the
24 presentence investigation report and findings and orders of the
25 sentencing court.

26 The fee established by the bill would be equivalent to the
27 average cost to the department of incarcerating an inmate for one
28 year. Currently, it costs approximately \$42,000 per year to
29 incarcerate one inmate. The fee set by the bill is to be prorated with
30 respect to persons incarcerated for 334 days or less. The calculation
31 of the number of days of incarceration would include time served
32 prior to conviction.

33 The bill grants the commissioner discretion to waive or reduce
34 the fee if an inmate's financial situation changes subsequent to the
35 preparation of the presentence investigation report and the inmate is
36 no longer able to pay the fee and is unlikely to become able to pay;
37 or the imposition of the fee would unduly burden the inmate's
38 dependents.

39 Under the bill, the fees could be used for alcohol and drug abuse
40 prevention programs.

41 The bill also authorizes the commissioner to file a lien against
42 the property of these inmates to ensure payment of the fee and
43 establishes procedures for filing of the lien.

44 Under the bill, the commissioner would be responsible for
45 establishing and collecting this fee for inmates confined in a
46 halfway house or similar private nonprofit community based
47 residential treatment centers.