

[First Reprint]

SENATE JOINT RESOLUTION

No. 74

STATE OF NEW JERSEY

218th LEGISLATURE

INTRODUCED MAY 10, 2018

Sponsored by:

Senator LINDA R. GREENSTEIN

District 14 (Mercer and Middlesex)

Senator NILSA CRUZ-PEREZ

District 5 (Camden and Gloucester)

Co-Sponsored by:

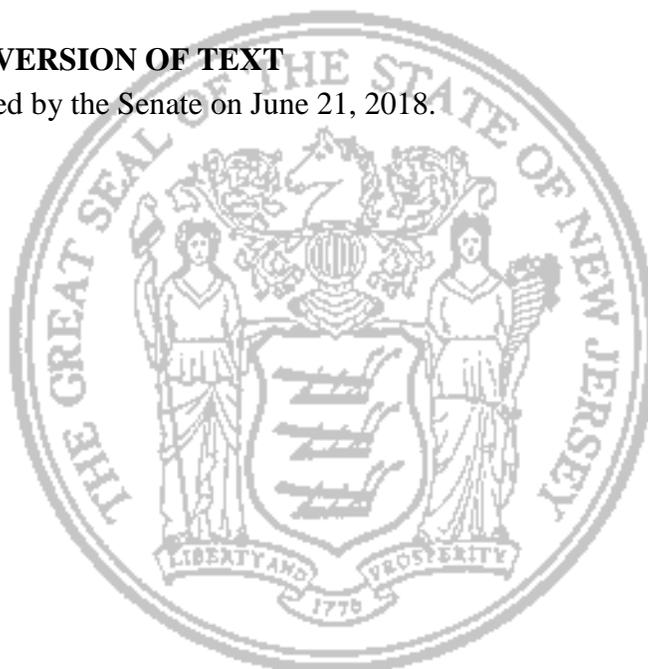
Senators Pou and Ruiz

SYNOPSIS

Creates commission to study sexual assault, misconduct, and harassment by staff against inmates in State correctional facilities.

CURRENT VERSION OF TEXT

As amended by the Senate on June 21, 2018.



(Sponsorship Updated As Of: 6/26/2018)

1 A **JOINT RESOLUTION** creating a commission to study sexual
2 assault, misconduct, and harassment in this State’s correctional
3 ¹**[facility for women] facilities**¹.
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

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate floor amendments adopted June 21, 2018.

1 2018 in the Superior Court of New Jersey-Law Division,
2 Hunterdon County; and

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

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

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

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

22 **¹WHEREAS**, Sexual violence is recognized by the Federal Bureau of
23 Investigation (FBI) as the second most violent crime, and the
24 systemic abuse and mistreatment of inmates in this State’s
25 correctional facilities, as well as its concealment, is unacceptable
26 and prohibited by law; and

27 **WHEREAS**, This State recognizes that dominant culture often causes
28 men or gender non-conforming inmates to also be at risk for the
29 systemic abuse and mistreatment as experienced by female inmates
30 in Edna Mahan; and¹

31 **WHEREAS**, Based on the past and present criminal convictions,
32 pending criminal charges, and civil lawsuits against Edna Mahan
33 staff and the DOC, it is fitting and proper for the Legislature to
34 establish a commission to identify the causes and consequences of
35 sexual assault in Edna Mahan ¹, as well as in correctional facilities
36 for males inmates in this State.¹ and analyze current DOC policy
37 and procedures to determine how they can be modified to improve
38 the safety and well-being of ¹**【the】 these incarcerated¹** inmates
39 ¹**【incarcerated there】¹**; now, therefore,

40
41 **BE IT RESOLVED** by the Senate and General Assembly of the
42 State of New Jersey:

43
44 1. There is established the “Commission to Protect ¹New
45 Jersey¹ Inmates ¹**【in the Edna Mahan Correctional Facility for
46 Women】¹** from Sexual Assault and Sexual Misconduct.” The
47 commission shall consist of the following 17 members:

- 1 a. four legislative members, who shall include two members of
2 the Senate, who shall not be of same political party, and two
3 members of the General Assembly, who shall not be of the same
4 political party. The President of the Senate, the Speaker of the
5 General Assembly, the Minority Leader of the Senate, and the
6 Minority Leader of the General Assembly each shall appoint one
7 legislative member;
- 8 b. four ex officio members or their designees, who shall
9 include the following: the Commissioner of Corrections, the
10 Attorney General, the Director of the Division on Women in the
11 Department of Children and Families, and the Public Defender.
- 12 c. nine public members appointed by the Governor, who shall
13 include the following: a ¹【county prosecutor who has been
14 recommended by the County Prosecutors Association of the State of
15 New Jersey】 former inmate of the Edna Mahan Correctional
16 Facility for Women¹, a victims' rights advocate, a representative of
17 an organization that defends civil rights or promotes social justice, a
18 faculty member of a college or university located in this State with
19 expertise in women's issues, a representative of a collective
20 bargaining unit representing correctional police officers, a
21 representative of an organization dedicated to ending sexual
22 violence, a person with expertise on the PREA, a representative of a
23 Quaker organization promoting lasting peace with justice, and a
24 representative of an organization working for racial, social, and
25 economic justice, and greater unity in the community.
26
- 27 2. a. The commission shall organize within 30 days of the
28 appointment of its members. The commission shall elect a
29 chairperson from among its members, and the chairperson shall
30 select a secretary who need not be a member of the commission.
- 31 b. The commission may meet at the call of its chairperson at
32 the times and in the places it may deem appropriate and necessary
33 to fulfill its duties, and may conduct public hearings at any place it
34 shall designate.
- 35 c. The commission may request at these hearings the
36 appearance of officials of any State agency or political subdivision
37 of the State and may solicit testimony of interested groups and the
38 general public¹, including but not limited to officials, employees,
39 contractors, volunteers, and former and current inmates of State
40 correctional facilities¹.
- 41 d. The commission shall be entitled to call to its assistance and
42 avail itself of the services of the employees of any State, county, or
43 municipal department, board, bureau, commission, or agency as it
44 may require and as may be available to it for its purposes, including
45 a State university or college, and to employ stenographic and
46 clerical assistance and incur traveling and other miscellaneous

1 expenses necessary to perform its duties, within the limits of funds
2 appropriated or otherwise made available to it for its purposes.

3 e. Seven members of the commission shall constitute a quorum
4 for the transaction of business.

5 f. Members of the commission shall serve without
6 compensation, but shall be reimbursed for necessary expenses
7 actually incurred in the performance of their duties as members of
8 the commission.

9
10 3. The commission shall examine issues ¹[relating to]
11 affecting the safety and rights of inmates in State correctional
12 facilities, including, but not limited to, matters concerning¹ official
13 misconduct convictions, pending criminal charges, and civil
14 allegations by Edna Mahan inmates of sexual assault, sexual
15 misconduct, and sexual harassment against correctional police
16 officers, other staff members, contractors, and volunteers working
17 in the facility. The commission specifically shall:

18 a. assess the degree of ¹[the] a¹ facility's compliance with the
19 provisions of PREA, including the PREA audit process and whether
20 these audits should be unannounced, and determine how current
21 standards can be strengthened to further protect the inmates from
22 sexual assault and sexual misconduct;

23 b. ascertain the current policy and procedures for investigating
24 allegations ¹of crimes and offenses¹ by an inmate of sexual assault
25 and sexual misconduct against correctional police officers, other
26 staff members, contractors, and volunteers, including, but not
27 limited to:

28 (1) the current means of reporting allegations of sexual
29 misconduct, including complaints made via existing hotlines, and
30 whether the allegations should be reported to a neutral third party
31 that is not an employee of the DOC;

32 (2) the parameters governing the investigation of a complaint
33 and how it is determined if an allegation is substantiated or
34 unsubstantiated and whether the Special Investigations Division of
35 the DOC can fairly and impartially conduct these investigations;

36 (3) whether the inmates' due process rights are being protected
37 during the investigation;

38 (4) how the facility prevents retaliation by a DOC employee
39 against whom there is an allegation of sexual misconduct or other
40 criminal act and whether the employee is or should be suspended,
41 either with or without pay, pending the completion of an
42 investigation; and

43 (5) whether an inmate is receiving adequate services to deal
44 with the trauma resulting from the sexual misconduct or other
45 criminal act of the staff;

46 c. explore the feasibility of increasing the female to male staff
47 ratio in ¹[the facility] Edna Mahan¹ and determine if the current

- 1 policy governing cross gender searches and surveillance should
2 include further protections for female inmates;
- 3 d. consider whether it would be appropriate to establish a
4 citizen oversight board to monitor ¹~~the~~ ^a facility;
- 5 e. research the availability of additional training and technical
6 assistance from the PREA Research Center; ¹~~and~~ ¹
- 7 f. ¹consider issues concerning the sexual victimization of
8 inmates by correctional police officers, employees, contractors, and
9 volunteers in this State's correctional facilities for males; and
- 10 g. ¹ study any other issue it deems relevant to enhance the safety
11 and security of the inmates in ¹~~the facility~~ State correctional
12 facilities¹.
- 13
- 14 4. The commission shall prepare and submit to the Governor
15 and to the Legislature pursuant to section 2 of P.L.1991, c.164
16 (C.52:14-19.1) a preliminary report of its findings and
17 recommendations no later than six months after the organizational
18 meeting of the commission, and a final report, including legislative
19 proposals, no later than one year after the organizational meeting.
20 The commission shall expire upon submission of the final report,
21 unless it deems further deliberations are necessary, in which case it
22 may be extended for two subsequent periods of six months.
- 23
- 24 ¹~~5. his~~ 5. This¹ joint resolution shall take effect immediately.