

ASSEMBLY, No. 4235

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED JUNE 8, 2020

Sponsored by:

Assemblyman RAJ MUKHERJI

District 33 (Hudson)

Assemblywoman SHAVONDA E. SUMTER

District 35 (Bergen and Passaic)

Assemblywoman VERLINA REYNOLDS-JACKSON

District 15 (Hunterdon and Mercer)

Co-Sponsored by:

**Assemblymen Johnson, Zwicker, Assemblywomen Murphy, Chaparro,
Assemblyman Spearman, Assemblywomen Carter, Jasey, Assemblyman
Giblin and Assemblywoman McKnight**

SYNOPSIS

Requires public health emergency credits to be awarded to certain inmates during public health emergency declared by Governor.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 7/20/2020)

1 AN ACT concerning public health emergency credits, amending
2 N.J.S.2C:47-3, and supplementing Title 30 of the Revised
3 Statutes and P.L.1993, c.133 (C.2A:4A-44).

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

7
8 1. (New section) a. In addition to credits awarded pursuant
9 to R.S.30:4-92; section 3 of P.L.2009, c.330 (C.30:4-92a); and
10 R.S.30:4-140, whenever a public health emergency, pursuant to the
11 "Emergency Health Powers Act," P.L.2005, c.222 (C.26:13-1 et
12 seq.), has been declared by the Governor and is in effect, the
13 commissioner also shall award inmates public health emergency
14 credits in accordance with this section if the public health
15 emergency:

16 (1) arises as a result of a communicable or infectious disease;
17 and

18 (2) results in the modification of correctional facility operations.

19 b. Except as provided in subsection c. of this section, public
20 health emergency credits shall be awarded to any inmate in the
21 custody of the Department of Corrections who is serving a sentence
22 or receiving jail credits applicable to the sentence. The credits shall
23 provide further remission from both the maximum and minimum
24 term of the inmate's sentence at the rate of six months for each
25 month, or portion thereof, served during the declared emergency.
26 An inmate shall not be awarded public health emergency credits in
27 excess of 12 months of remission for any declared emergency.

28 c. Public health emergency credits shall not be awarded to an
29 inmate whose conduct was characterized by a pattern of repetitive,
30 compulsive behavior pursuant to N.J.S.2C:47-3.

31 d. Nothing in this section shall be deemed to limit or affect an
32 inmate's eligibility for parole consideration as provided for in
33 section 10 of P.L.1948, c.84 (C.30:4-123.1 et seq.).

34

35 2. N.J.S.2C:47-3 is amended to read as follows:

36 2C:47-3. Disposition.

37 a. If the report of the examination reveals that the offender's
38 conduct was characterized by a pattern of repetitive, compulsive
39 behavior and further reveals that the offender is amenable to sex
40 offender treatment and is willing to participate in such treatment,
41 the court shall determine whether the offender's conduct was so
42 characterized and whether the offender is amenable to sex offender
43 treatment and is willing to participate in such treatment and shall
44 record its findings on the judgment of conviction.

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.

1 b. If the court finds that the offender's conduct was
2 characterized by a pattern of repetitive, compulsive behavior and
3 that the offender is amenable to sex offender treatment and is
4 willing to participate in such treatment, the court shall, upon the
5 recommendation of the Department of Corrections, sentence the
6 offender to a term of incarceration to be served in the custody of the
7 commissioner at the Adult Diagnostic and Treatment Center for sex
8 offender treatment as provided in subsection h. of this section, or
9 place the offender on probation with the requirement, as a condition
10 of probation, that he receive outpatient psychological or psychiatric
11 treatment as prescribed.

12 c. A sentence of incarceration or probation imposed pursuant to
13 subsection b. or f. of this section shall be set in accordance with
14 chapters 43, 44 and 45 of this Title.

15 d. The court shall impose sentence in accordance with chapters
16 43, 44 and 45 of this Title and not as provided in subsection b. of
17 this section if it shall appear from the report of the examination
18 made of the offender pursuant to section N.J.S.2C:47-1 that the
19 offender's conduct was not characterized by a pattern of repetitive,
20 compulsive behavior or that the offender is not amenable to sex
21 offender treatment. Notwithstanding the provisions of R.S.30:4-140
22 or R.S.30:4-92 or any other law, a sentence imposed pursuant to
23 this subsection on an offender who is not amenable to sex offender
24 treatment shall not be reduced by commutation time for good
25 behavior or credits for diligent application to work and other
26 institutional assignments.

27 e. (Deleted by amendment, P.L.1998, c.72).

28 f. If the court finds that the offender's conduct was
29 characterized by a pattern of repetitive, compulsive behavior and
30 that the offender is amenable to sex offender treatment, but that the
31 offender is not willing to participate in such treatment, the court
32 shall sentence the offender to a term of incarceration to be served in
33 a facility designated by the commissioner pursuant to section 2 of
34 P.L.1969, c.22 (C.30:4-91.2). The offender shall become primarily
35 eligible for parole in accordance with the provisions of
36 N.J.S.2C:47-5; provided, however, no offender shall become
37 primarily eligible for parole prior to the expiration of any judicial or
38 statutory mandatory minimum term. An offender who meets the
39 criteria of this subsection may, on a biennial basis, request to be
40 transferred to the Adult Diagnostic and Treatment Center. Within
41 90 days after receiving a request for a transfer, the Department of
42 Corrections shall conduct a psychological examination. If, upon the
43 completion of a psychological examination, the Department of
44 Corrections determines that the offender is amenable to sex
45 offender treatment and is willing to participate in such treatment,
46 the commissioner may order the offender to be transferred to the
47 Adult Diagnostic and Treatment Center.

1 g. Notwithstanding the provisions of R.S.30:4-140 **[or]** ,
2 R.S.30:4-92, section 1 of P.L. c. (C.) (pending before the
3 Legislature as this bill), or any other law, a sentence imposed
4 pursuant to subsection f. of this section shall not be reduced by
5 commutation time for good behavior or credits for diligent
6 application to work and other institutional assignments for any year
7 or fractional part of a year that the offender is confined in a facility
8 other than the Adult Diagnostic and Treatment Center; provided,
9 however, if the offender is at any time transferred to the Adult
10 Diagnostic and Treatment Center pursuant to subsection f. of this
11 section, the sentence imposed on the offender shall be reduced by
12 commutation time for good behavior and credits for diligent
13 application to work and other institutional assignments for any year
14 or fractional part of a year that the offender is incarcerated at the
15 Adult Diagnostic and Treatment Center following the date of such
16 transfer.

17 h. An offender sentenced to a term of incarceration pursuant to
18 subsection b. of this section shall be confined as follows:

19 (1) If the court imposes a sentence of seven years or less, the
20 Department of Corrections shall confine the offender to the Adult
21 Diagnostic and Treatment Center as soon as practicable after the
22 date of sentence.

23 (2) If the court imposes a sentence of more than seven years, the
24 Department of Corrections shall confine the offender in a facility
25 designated by the commissioner pursuant to section 2 of
26 P.L.1969, c.22 (C.30:4-91.2). At least 30 days prior to the date
27 which precedes the expiration date of the offender's sentence by
28 five years, including any reductions for commutation time for good
29 behavior and credits for diligent application to work and other
30 institutional assignments, the Department of Corrections shall
31 complete a psychological examination of the offender to determine
32 the offender's amenability to sex offender treatment and willingness
33 to participate in such treatment; provided, however, no such
34 examination shall be required if less than two years has elapsed
35 since the Department of Corrections completed a psychological
36 examination pursuant to N.J.S.2C:47-1. If the report of the
37 examination reveals that the offender is amenable to sex offender
38 treatment and is willing to participate in such treatment, the
39 offender shall be transferred to the Adult Diagnostic and Treatment
40 Center as soon as practicable. If the report of the examination
41 reveals that the offender is not amenable to sex offender treatment,
42 the offender shall not be transferred to the Adult Diagnostic and
43 Treatment Center. If the report of the examination reveals that the
44 offender is amenable to sex offender treatment but is not willing to
45 participate in such treatment, the offender shall not be transferred to
46 the Adult Diagnostic and Treatment Center. An offender may, on a
47 biennial basis, request to be transferred to the Adult Diagnostic and
48 Treatment Center. Within 90 days after receiving a request for a

1 transfer, the Department of Corrections shall conduct a
2 psychological examination. If, upon the completion of a
3 psychological examination, the Department of Corrections
4 determines that the offender is amenable to sex offender treatment
5 and is willing to participate in such treatment, the commissioner
6 shall order the offender to be transferred to the Adult Diagnostic
7 and Treatment Center as soon as practicable.

8 (3) If a sentence is imposed pursuant to section 2 of
9 P.L.1997, c.117 (C.2C:43-7.2) or if any other judicial or statutory
10 mandatory minimum term of more than seven years is imposed, the
11 offender shall be confined in a facility designated by the
12 commissioner pursuant to section 2 of P.L.1969, c.22 (C.30:4-91.2).
13 At least 30 days prior to the date which precedes the expiration date
14 of the mandatory minimum term by five years, the Department of
15 Corrections shall complete a psychological examination of the
16 offender to determine the offender's amenability to sex offender
17 treatment and willingness to participate in such treatment; provided,
18 however, no such examination shall be required if less than two
19 years has elapsed since the Department of Corrections completed a
20 psychological examination pursuant to N.J.S.2C:47-1. If the report
21 of the examination reveals that the offender is amenable to sex
22 offender treatment and is willing to participate in such treatment,
23 the offender shall be transferred to the Adult Diagnostic and
24 Treatment Center as soon as practicable. If the report of the
25 examination reveals that the offender is not amenable to sex
26 offender treatment, the offender shall not be transferred to the Adult
27 Diagnostic and Treatment Center. If the report of the examination
28 reveals that the offender is amenable to sex offender treatment, but
29 is not willing to participate in such treatment, the offender shall not
30 be transferred to the Adult Diagnostic and Treatment Center. An
31 offender may, on a biennial basis, request to be transferred to the
32 Adult Diagnostic and Treatment Center. Within 90 days after
33 receiving a request for a transfer, the Department of Corrections
34 shall conduct a psychological examination. If upon completion of a
35 psychological examination the Department of Corrections
36 determines that the offender is amenable to sex offender treatment
37 and is willing to participate in such treatment, the commissioner
38 shall order the offender to be transferred to the Adult Diagnostic
39 and Treatment Center as soon as practicable.

40 i. Notwithstanding the provisions of R.S. 30:4-140 or R.S.
41 30:4-92 or any other law, a sentence imposed pursuant to subsection
42 b. of this section shall not be reduced by commutation time for good
43 behavior or credits for diligent application to work and other
44 institutional assignments for any year or fractional part of a year
45 from the date the Department of Corrections determines, as a result
46 of a psychological evaluation conducted pursuant to paragraph (2)
47 or (3) of subsection h. of this section, that the offender is not
48 amenable to sex offender treatment or not willing to participate in

1 such treatment; provided, however, if the offender is subsequently
2 determined by the Department of Corrections to be amenable to sex
3 offender treatment and willing to participate in such treatment and
4 is transferred to the Adult Diagnostic and Treatment Center, the
5 sentence imposed on the offender shall be reduced by commutation
6 time for good behavior and credits for diligent application to work
7 and other institutional assignments for any year or fractional part of
8 a year that the offender is incarcerated at the Adult Diagnostic and
9 Treatment Center following the date of such transfer.

10 j. An offender who is sentenced to a term of life imprisonment
11 without eligibility for parole shall not be confined in the Adult
12 Diagnostic and Treatment Center but shall be confined in a facility
13 designated by the commissioner pursuant to section 2 of
14 P.L. 1969, c.22 (C.30:4-91.2).

15 k. The commissioner shall be required to provide for the
16 treatment of a sex offender sentenced pursuant to N.J.S.2C:47-1 et
17 seq. only when the offender is incarcerated in the Adult Diagnostic
18 and Treatment Center. This requirement shall not apply when the
19 offender is incarcerated in another facility.
20 (cf: P.L.1998, c.72, s.3)

21
22 3. (New section) a. Except as provided in subsection b. of
23 this section, the procedures and standards for the award of credits
24 set forth in R.S.30:4-92; section 3 of P.L.2009, c.330 (C.30:4-92a);
25 section 1 of P.L. c. (C.) (pending before the Legislature as
26 this bill); and R.S.30:4-140 shall apply to any juvenile serving a
27 sentence in a State correctional facility operated by the Juvenile
28 Justice Commission.

29 b. Public health emergency credits shall not be awarded to any
30 juvenile who is deemed a repetitive, compulsive sex offender.

31
32 4. This act shall take effect immediately.

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35 STATEMENT

36
37 This bill requires public health emergency credits to be awarded
38 to certain inmates during a public health emergency declared by the
39 Governor in order to provide remission of time from their
40 sentences.

41 The COVID-19 death rate of inmates in New Jersey is the
42 highest in the country. While the State of New Jersey has been
43 severely impacted by the COVID-19 pandemic, inmates in this
44 State have been afflicted at a particularly alarming rate, as the
45 inability of inmates to quarantine or practice social distancing
46 creates a higher risk to their lives. In providing a method to award
47 these credits, it is the sponsor's intent to expedite the release of
48 certain inmates who are approaching the end of their sentences in

1 order to reduce the risk of harm to inmates and correctional facility
2 staff, while simultaneously protecting the public safety.

3 This bill provides for public health emergency credits to be
4 awarded to certain inmates in the event a public health emergency is
5 declared by the Governor that arises as a result of a communicable
6 or infectious disease, and results in the modification of correctional
7 facility operations.

8 Under the bill, public health emergency credits are to be awarded
9 to any inmate in the custody of the Department of Corrections who
10 is serving a sentence or receiving jail credits applicable to the
11 sentence. The credits would provide further remission from both the
12 maximum and minimum term of the inmate's sentence at the rate of
13 six months for each month, or portion of each month, served during
14 the declared emergency with a maximum of 12 months of remission
15 to be awarded for any declared emergency period. The award of
16 public health emergency credits is not to limit or affect an inmate's
17 eligibility for parole consideration.

18 Public health emergency credits are not to be awarded under the
19 bill to an inmate who has been deemed a repetitive, compulsive sex
20 offender.

21 The bill also provides that juvenile offenders, other than those
22 deemed to be repetitive, compulsive sex offenders, are eligible to
23 receive public health emergency credits. The bill further provides
24 that these juveniles are eligible to receive other credits provided
25 under current law.