

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

[Second Reprint]

ASSEMBLY, No. 4235

with committee amendments

STATE OF NEW JERSEY

DATED: AUGUST 24, 2020

The Assembly Appropriations Committee reports favorably Assembly Bill No. 4235 (2R), with committee amendments.

The amended bill requires public health emergency credits to be awarded to certain inmates, juveniles, and parolees during a public health emergency declared by the Governor to provide remission of time from an inmate's or juvenile's sentence, and a parolee's term of parole. The amended bill also prohibits contact with any identifiable victim following the release of an inmate or juvenile awarded credits, and requires certain reentry information to be provided prior to release.

The COVID-19 death rate of inmates in New Jersey is the highest in the country. Inmates in this State have been afflicted at a particularly alarming rate due to the inability to quarantine or practice social distancing. The provisions of this amended bill would expedite the release of certain inmates and juveniles who are approaching the end of their sentences to reduce the risk of harm to inmates, juveniles, and facility staff, while protecting the public safety.

The amended bill provides for public health emergency credits to be awarded to an inmate in the custody of the Department of Corrections (DOC) or a juvenile in the custody of the Juvenile Justice Commission (JJC) who is scheduled to be released from custody within one year. The credits are to be awarded if a public health emergency is declared by the Governor in response to a communicable or infectious disease, and results in substantial modification to department-wide correctional facility operations. The credits would reduce the inmate or juvenile's sentence at the rate of four months for each month, or portion of each month, served during the declared emergency, with a maximum of eight months of remission to be awarded for any declared emergency period. The bill also provides that an award of public health emergency credits is not to limit or affect an inmate's eligibility for parole consideration. Public health emergency credits are not to be awarded to an inmate or juvenile who has been deemed a repetitive, compulsive sex offender.

A juvenile who is awarded credits under the bill, and whose scheduled release date is less than 45 days following the effective date

of the bill, is to be released within 45 days after the effective date of the bill in order to enable the JJC to devise and implement a release plan for the juvenile and arrange for services to be provided to the juvenile upon release.

Under the bill, an inmate or juvenile who is released following an award of credits is prohibited from making contact with any victim of the crime for which the inmate or juvenile was serving a sentence. This contact prohibition is to remain in force from the date the inmate or juvenile is released until the date the inmate or juvenile was scheduled to be released from custody prior to the award of credits. Specifically, the amended bill would prohibit any contact, either personally or through an agent, that includes personal, written, electronic, or telephone contact with the victim, or entering the victim's residence, property, school, or place of employment.

The court is required to establish procedures for filing a petition to dissolve the contact prohibition. An inmate or juvenile who purposely or knowingly violates the contact prohibition is guilty of a crime of the fourth degree, which is punishable by a term of imprisonment of up to 18 months, a fine of up to \$10,000 or both.

Prior to releasing an inmate following an award of public health emergency credits, the DOC and JJC are required to notify the inmate or juvenile, as appropriate, in writing of the contact prohibition, and that a violation of the contact prohibition is a crime of the fourth degree. The DOC and JJC also are to require the inmate to acknowledge receipt, in writing, of the written notifications related to the contact prohibition provided under the amended bill.

The DOC is required under the bill to provide inmates, prior to release, with information concerning reentry organizations and programs. The DOC also is required, within 30 days prior to releasing an inmate following an award of credits, to provide any available information related to the inmate's eligibility for Medicaid, housing information, identification information, and eligibility for any other benefits and services. Subject to the availability of DOC testing resources, the DOC is required to test an inmate for COVID-19 prior to release following an award of public health emergency credits if the inmate is released during the Public Health Emergency and State of Emergency declared by the Governor in Executive Order 103 of 2020 concerning the coronavirus disease 2019 pandemic.

The provisions of the amended bill also require the DOC or JJC, as appropriate, to notify the appropriate court and the prosecutor of the county in which the inmate was convicted or the Attorney General if the matter was prosecuted by the Attorney General of: the name of any inmate or juvenile who is scheduled to be released from custody within 12 months as a result of the award of credits; the date the inmate or juvenile is scheduled to be released; and the date the inmate or juvenile was scheduled to be released prior to the award of credits.

Information concerning the procedures for filing an application for a domestic violence restraining order, resources for victims of domestic violence, and the procedures for filing a petition to dissolve the contact prohibition established under the bill are to be made available in both English and Spanish on the DOC, JJC, and Department of Law and Public Safety websites.

The prosecutor or Attorney General may, prior to the scheduled release date, use any reasonable means available to notify an identifiable victim of: the crime for which the inmate or juvenile is serving a sentence of the inmate's or juvenile's scheduled release date, the law prohibiting the inmate or juvenile from having any contact the victim, the date the contact prohibition will expire, the penalties imposed for a violation; information concerning the procedures for filing an application to dissolve the contact prohibition, the procedures for filing an application for a domestic violence restraining order, and resources for victims of domestic violence.

The provisions of the amended bill also require public health emergency credits to be awarded to a parolee whose term expires within one year if a public health emergency is declared by the Governor that arises as a result of a communicable or infectious disease. The credits would reduce the parolee's term of supervision at the rate of four months for each month, or portion of each month, of the parolee's term served during the declared emergency, with a maximum of eight months of remission awarded for any declared emergency period.

A parolee who has been sentenced to a special sentence of community supervision for life or parole supervision for life, or a parole for a whom a warrant has been issued or parole revocation proceedings have been initiated, is ineligible to receive credits under the amended bill. The amended bill further clarifies that the award of public health emergency credits are not to interfere with the award of compliance credits to be awarded to a parolee under current law. Likewise, an award of compliance credits is not to interfere with the award of public health emergency credits under the amended bill.

COMMITTEE AMENDMENTS

The committee amended the bill to:

- (1) replace the requirement that the court enter a "no contact" order with a statutory prohibition to prohibit an inmate or juvenile from purposely or knowingly making contact with any victim of the crime for which the inmate or juvenile was serving a sentence;
- (2) require the contact prohibition to be in force from the date of the inmate's or juvenile's release until the date the inmate or juvenile was scheduled to be released prior to the award of public health emergency credits;
- (3) provide that prohibited contact with a victim, either personally or through an agent, includes but is not limited to: personal, written,

electronic, or telephone contact or communication; or entering the residence, property, school, or place of employment of the victim;

(4) provide that a violation of the statutory contact prohibition is a crime of the fourth degree;

(5) require the DOC and JJC to notify an inmate or juvenile, as appropriate, in writing of the prohibition against making contact with a victim and that a violation of the contact prohibition is a crime of the fourth degree; and require the inmate or juvenile to acknowledge in writing the receipt of the written notifications;

(6) require the DOC, prior to releasing an inmate following an award of credits, to compile and disseminate to inmates information concerning organizations and programs, whether faith-based or secular programs, which provide assistance and services to inmates reentering society after a period of incarceration;

(7) require the DOC, within 30 days prior to releasing an inmate following an award of credits, to provide any available information related to the inmate's Medicaid eligibility, housing and identification information, and eligibility for any other benefits and services;

(8) require the DOC, subject to the availability of testing resources, to test an inmate for COVID-19 prior to release from the custody following an award of credits if the inmate is released during the COVID-19 Public Health Emergency and State of Emergency declared in the Governor's Executive Order 103;

(9) require the court to establish procedures for filing a petition to dissolve the contact prohibition and provide the DOC, JJC, and Attorney General with information concerning the procedures for filing a petition to dissolve the contact prohibition;

(10) require the Attorney General or prosecutor to provide information to the victim concerning: procedures for filing a petition to dissolve the contact prohibition, procedures for filing an application for a domestic violence restraining order, rather than specifically a "final" domestic violence restraining order, and resources for victims of domestic violence;

(11) require the information to be made available on the DOC, JJC, and the Department of Law and Public Safety websites to include the procedures for filing a petition to dissolve the contact prohibition established under the bill;

(12) require public health emergency credits to be awarded to certain parolees in the event a public health emergency is declared by the Governor related to a communicable or infectious disease;

(13) provide that public health emergency credits are to be awarded to a parolee whose term expires within one year, and that the credits would reduce the parolee's term of supervision at the rate of four months for each month, or portion of each month, of the parolee's term served during the declared emergency with a maximum of eight months of remission to be awarded for any declared emergency period;

(14) provide that credits are not to be awarded to a parolee who has been sentenced to a special sentence of community supervision for life or parole supervision for life, or for a whom a warrant has been issued or parole revocation proceedings have been initiated; and

(15) clarify that the award of public health emergency credits are not to interfere with the award of parole compliance credits.

FISCAL IMPACT:

The OLS lacks sufficient information to quantify the overall fiscal impact as it is unclear as to how many offenders and parolees would be impacted by the provisions of this bill, and the frequency of such widespread infectious diseases resulting in a public health emergency cannot be accurately forecast. In general, however, the bill should result in lower State operating expenses during times when a public health emergency is declared.