

# ASSEMBLY BUDGET COMMITTEE

## STATEMENT TO

[Third Reprint]

## ASSEMBLY, No. 4235

with committee amendments

# STATE OF NEW JERSEY

DATED: SEPTEMBER 22, 2020

The Assembly Budget Committee reports favorably Assembly Bill No. 4235 (3R) with committee amendments.

As amended and reported by the committee, Assembly Bill No. 4235 (3R) 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 would not be awarded to any inmate or juvenile who is serving a sentence for murder, aggravated sexual assault, or 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 with 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 parolee for 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.

As amended and reported by the committee, this bill is identical to Senate Bill No. 2519 (4R), which also was amended and reported by the committee.

#### COMMITTEE AMENDMENTS

The committee amended the bill to provide that an inmate or juvenile is not eligible to receive public health emergency credits if the inmate or juvenile is serving a sentence for murder or aggravated sexual assault. As introduced, only an inmate or juvenile who was deemed a repetitive, compulsive sex offender was ineligible to receive credits.

FISCAL IMPACT:

The Office of Legislative Services (OLS) concludes that accelerating the release date of certain inmates and juvenile offenders and reducing the parole term of certain parolees by up to eight months by awarding them public health emergency credits could lower the operating expenditures of the Department of Corrections (DOC), the State Parole Board (SPB), and the Juvenile Justice Commission (JJC) during times when a public health emergency is declared. However, the OLS is unable to quantify the savings from housing an offender or supervising parolees for a reduced period of time due to lack of sufficient data.

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.

The OLS concurs with the DOC that the State may incur some cost for COVID-19 testing under the provisions of the bill. However, the OLS is unable to project the number of inmates who would be eligible for early release and need testing.