

[Third Reprint]

## **ASSEMBLY, No. 4370**

# **STATE OF NEW JERSEY**

## **219th LEGISLATURE**

INTRODUCED JUNE 29, 2020

**Sponsored by:**

**Assemblywoman LINDA S. CARTER**

**District 22 (Middlesex, Somerset and Union)**

**Assemblywoman MILA M. JASEY**

**District 27 (Essex and Morris)**

**Assemblywoman ANGELA V. MCKNIGHT**

**District 31 (Hudson)**

**Co-Sponsored by:**

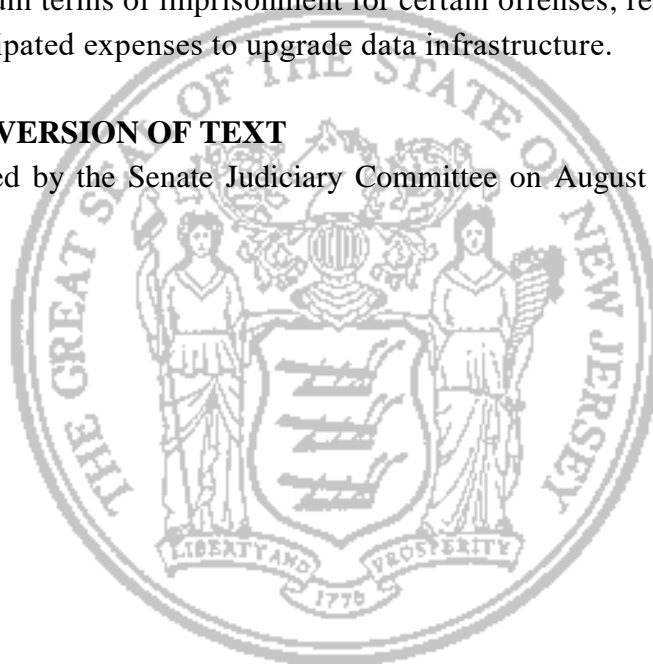
**Assemblywoman Reynolds-Jackson**

### **SYNOPSIS**

Permits retroactive modification of judgments of conviction, including rescinding mandatory minimum periods of parole ineligibility and reducing fixed minimum terms of imprisonment for certain offenses; requires study of DOC's anticipated expenses to upgrade data infrastructure.

### **CURRENT VERSION OF TEXT**

As reported by the Senate Judiciary Committee on August 25, 2020, with amendments.



**(Sponsorship Updated As Of: 7/23/2020)**

1 AN ACT concerning <sup>3</sup>criminal justice, with an emphasis on rescinding  
 2 mandatory minimum periods of<sup>3</sup> parole <sup>3</sup>ineligibility<sup>3</sup>,  
 3 supplementing Title 30 of the Revised Statutes, and amending  
 4 P.L.1979, c.441 <sup>3</sup>and P.L.1967, c.43<sup>3</sup>.

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

8  
 9 1. (New section) a. The <sup>3</sup>**Administrative Director of the**  
 10 **Courts** <sup>3</sup>Supreme Court<sup>3</sup> may issue an order to retroactively modify  
 11 the judgment of conviction, in accordance with the provisions of  
 12 subsection m. of section 7 of P.L.1979, c.441 (C.30:4-123.51), to  
 13 rescind the mandatory minimum period of parole ineligibility of any  
 14 inmate convicted prior to <sup>2</sup>and who is in the custody of the  
 15 Department of Corrections on,<sup>2</sup> the effective date of P.L. , c. (C.  
 16 ) (pending before the Legislature as this bill) who was sentenced in  
 17 accordance with:

18 (1) leader of a cargo theft network pursuant to subsection e. of  
 19 section 4 of P.L.2013, c.58 (C.2C:20-2.4);

20 (2) crimes involving theft from a cargo carrier pursuant to  
 21 subsection c. of section 6 of P.L.2013, c.58 (C.2C:20-2.6);

22 (3) shoplifting pursuant to paragraph (4) of subsection c. of  
 23 N.J.S.2C:20-11;

24 (4) <sup>1</sup>**computer criminal activity** pursuant to subsections g. or h.  
 25 of section 4 of P.L.1984, c.184 (C.2C:20-25);

26 (5) <sup>1</sup>**wrongful access, disclosure of information** pursuant to  
 27 subsection b. of section 10 of P.L.1984, c.184 (C.2C:20-31);

28 <sup>1</sup>**(6) leader of narcotics trafficking network** pursuant to  
 29 N.J.S.2C:35-3;

30 (7) <sup>1</sup>**(5)** maintaining or operating a controlled dangerous  
 31 substance production facility pursuant to N.J.S.2C:35-4;

32 <sup>1</sup>**(8)** <sup>1</sup>**(6)** manufacturing, distributing, or dispensing a controlled  
 33 dangerous substance or controlled substance analog pursuant to  
 34 N.J.S.2C:35-5;

35 <sup>1</sup>**(9)** <sup>1</sup>**(7)** employing a juvenile in a drug distribution scheme  
 36 pursuant to N.J.S.2C:35-6;

37 <sup>1</sup>**(10)** <sup>1</sup>**(8)** distribution on or within 1,000 feet of school  
 38 property pursuant to section 1 of P.L.1987, c.101 (C.2C:35-7);

39 <sup>1</sup>**(11)** <sup>1</sup>**(9)** distribution to persons under age 18 pursuant to  
 40 section 1 of <sup>3</sup>**N.J.J.2C:35-8** N.J.S.2C:35-8<sup>3</sup>; <sup>3</sup>**or**<sup>3</sup>

**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:

<sup>1</sup>Assembly ALP committee amendments adopted July 20, 2020.

<sup>2</sup>Assembly AAP committee amendments adopted July 27, 2020.

<sup>3</sup>Senate SJU committee amendments adopted August 25, 2020.

1       <sup>1</sup>[(12)] (10)<sup>1</sup> <sup>3</sup>a<sup>3</sup> mandatory term for <sup>3</sup>being a<sup>3</sup> repeat drug  
 2       <sup>3</sup>[offenders] offender<sup>3</sup> pursuant to subsection f. of N.J.S.2C:43-6 <sup>3</sup>;  
 3       or

4       (11) a mandatory term for official misconduct, N.J.S.2C:30-2,  
 5       pursuant to section 6 of P.L.2007, c.49 (C.2C:43-6.5), due to the  
 6       offense involving or touching the office or employment once held by  
 7       the convicted and sentenced public officer or employee<sup>3</sup>,

8       unless the prosecutor objects in the case of an inmate <sup>3</sup>so  
 9       sentenced in accordance with any of those paragraphs<sup>3</sup>.

10      b. The <sup>2</sup>[administrative director] Supreme Court<sup>2</sup> may issue an  
 11      order to retroactively modify the judgment of conviction, in  
 12      accordance with the provisions of subsection m. of section 7 of  
 13      P.L.1979, c.441 (C.30:4-123.51) to resentence an inmate to a fixed  
 14      minimum term of 50 percent of the sentence of incarceration  
 15      imposed in lieu of the 85 percent fixed minimum term for second  
 16      degree robbery in violation of N.J.S.2C:15-1 or second degree  
 17      burglary in violation of N.J.S.2C:18-2 that was committed prior to  
 18      the effective date of P.L.     , c.     (C.     ) (pending before the  
 19      Legislature as this bill), unless the prosecutor files an objection.

20      c. <sup>2</sup>[An] The Commissioner of Corrections shall identify, from  
 21      a list of defendants sentenced for the enumerated crimes provided  
 22      by the Administrative Office of the Courts, those inmates in the  
 23      custody of the Department of Corrections who are eligible for  
 24      resentencing under an<sup>2</sup> order issued pursuant to subsections a. or b.  
 25      of this section <sup>2</sup>[shall remain inoperative for thirty days, to allow  
 26      the State to identify the affected inmates and] , and provide a list of  
 27      eligible inmates to the Supreme Court, the Attorney General and  
 28      county prosecutors. No later than 60 days after receipt of the list,  
 29      the State shall<sup>2</sup> determine whether there <sup>2</sup>[was] is<sup>2</sup> a basis to file an  
 30      objection in any inmate's case.

31      d. A prosecutor shall not file an objection to the retroactive  
 32      modification of an inmate's judgment of conviction pursuant to this  
 33      section without the prior approval of the Attorney General.

34      e. The Attorney General shall provide to the <sup>2</sup>Administrative  
 35      Director of the Courts and to the<sup>2</sup> Department of Corrections notice  
 36      as to the identity of each inmate for whom a determination is made  
 37      to file an objection. The Department of Corrections shall promptly  
 38      notify the inmate and the inmate's attorney or, if the inmate does  
 39      not have an attorney, the <sup>3</sup>[public defender] Public Defender<sup>3</sup> of the  
 40      determination to file an objection with respect to that individual.

41      f. <sup>2</sup>[An] (1) In any case in which a determination is made to  
 42      file an<sup>2</sup> objection to the retroactive modification of a judgment of  
 43      conviction for an inmate <sup>2</sup>[shall be filed with the sentencing court,  
 44      or the presiding criminal judge if the sentencing court is not still  
 45      sitting, and provided to the inmate's attorney or, if the inmate does  
 46      not have an attorney, the public defender] , the prosecutor shall file

1 any such objection with the Superior Court in the county where the  
2 conviction occurred. Any such objection shall be filed no later than  
3 60 days following receipt of the list from the Department of  
4 Corrections pursuant to subsection c. of this section, or within 30  
5 days of providing notice of a determination to file an objection  
6 pursuant to subsection e. of this section, whichever date is later.

7 (2) For those eligible inmates as to whom the prosecutor does  
8 not file an objection, the court may order the retroactive  
9 modification of those inmates' judgments of conviction in  
10 accordance with the provisions of paragraphs (1) or (2) of  
11 subsection m. of section 7 of P.L.1979, c.441 (C.30:4-123.51),  
12 without conducting a hearing<sup>2</sup>.

13 g. In the event the prosecutor files an objection, the inmate's  
14 judgment of conviction shall be retroactively modified in  
15 accordance with the provisions of paragraphs (1) or (2) of  
16 subsection m. of section 7 of P.L.1979, c.441 (C.30:4-123.51)  
17 unless the court, after a hearing, finds by clear and convincing  
18 evidence that rescinding the term of parole ineligibility imposed  
19 upon the inmate would likely pose a substantial risk to public safety  
20 or that the aggravating factors associated with rescinding or  
21 reducing, as the case may be, the term of parole ineligibility  
22 substantially outweigh the mitigating factors of doing so.

23 h. A court that finds that an inmate's sentence applies to  
24 paragraphs (1) or (2) of subsection m. of section 7 of P.L.1979,  
25 c.441 (C.30:4-123.51) may issue an order denying the retroactive  
26 modification of the judgment of conviction, or in the alternative:

27 (1) for an inmate whose sentence applies pursuant to paragraph  
28 (1) of subsection m. of section 7 of P.L.1979, c.441 (C.30:4-  
29 123.51), the court may modify the judgment of conviction by  
30 rescinding the mandatory period of parole ineligibility and  
31 sentencing the inmate to a period of discretionary parole  
32 ineligibility; and

33 (2) for an inmate whose sentence applies pursuant to paragraph  
34 (2) of subsection m. of section 7 of P.L.1979, c.441 (C.30:4-  
35 123.51), the court may resentence the inmate to a fixed minimum  
36 term of 50 percent of the sentence of incarceration imposed with an  
37 additional period of discretionary parole ineligibility.

38 i. Any period of parole ineligibility imposed pursuant to  
39 subsection g. of this section shall not result in a period of parole  
40 ineligibility in excess of the period that otherwise would have  
41 applied under the judgment of conviction prior to modification.

42 j. An inmate who is afforded a hearing pursuant to subsection  
43 g. of this section <sup>2</sup>[may] shall<sup>2</sup> be represented by the <sup>3</sup>[public  
44 defender] Public Defender<sup>3</sup> <sup>2</sup>, unless the inmate retains other  
45 counsel<sup>2</sup>.

46 k. Nothing in this section shall be construed to authorize the  
47 court to modify or in any way affect any mandatory minimum term  
48 of parole ineligibility imposed pursuant to a law other than those

1 subject to subsection m. of section 7 of P.L.1979, c.441 (C.30:4-  
2 123.51).

3

4 2. Section 7 of P.L.1979, c.441 (C.30:4-123.51) is amended to  
5 read as follows:

6 7. a. Each adult inmate sentenced to a term of incarceration in  
7 a county penal institution, or to a specific term of years at the State  
8 Prison or the correctional institution for women shall become  
9 primarily eligible for parole after having served any judicial or  
10 statutory mandatory minimum term, or one-third of the sentence  
11 imposed where no mandatory minimum term has been imposed less  
12 commutation time for good behavior pursuant to N.J.S.2A:164-24  
13 or R.S.30:4-140 and credits for diligent application to work and  
14 other institutional assignments pursuant to P.L.1972, c.115 (C.30:8-  
15 28.1 et seq.) or R.S.30:4-92. Consistent with the provisions of the  
16 New Jersey Code of Criminal Justice (N.J.S.2C:11-3, 2C:14-6,  
17 2C:43-6, 2C:43-7), commutation and work credits shall not in any  
18 way reduce any judicial or statutory mandatory minimum term and  
19 such credits accrued shall only be awarded subsequent to the  
20 expiration of the term.

21 b. Each adult inmate sentenced to a term of life imprisonment  
22 shall become primarily eligible for parole after having served any  
23 judicial or statutory mandatory minimum term, or 25 years where  
24 no mandatory minimum term has been imposed less commutation  
25 time for good behavior and credits for diligent application to work  
26 and other institutional assignments. If an inmate sentenced to a  
27 specific term or terms of years is eligible for parole on a date later  
28 than the date upon which he would be eligible if a life sentence had  
29 been imposed, then in such case the inmate shall be eligible for  
30 parole after having served 25 years, less commutation time for good  
31 behavior and credits for diligent application to work and other  
32 institutional assignments. Consistent with the provisions of the  
33 New Jersey Code of Criminal Justice (N.J.S.2C:11-3, 2C:14-6,  
34 2C:43-6, 2C:43-7), commutation and work credits shall not in any  
35 way reduce any judicial or statutory mandatory minimum term and  
36 such credits accrued shall only be awarded subsequent to the  
37 expiration of the term.

38 c. Each <sup>3</sup>adult<sup>3</sup> inmate sentenced to a specific term of years  
39 pursuant to the "Controlled Dangerous Substances Act," P.L.1970,  
40 c.226 (C.24:21-1 et al.) shall become primarily eligible for parole  
41 after having served one-third of the sentence imposed less  
42 commutation time for good behavior and credits for diligent  
43 application to work and other institutional assignments.

44 d. Each adult inmate sentenced to an indeterminate term of  
45 years as a young adult offender pursuant to N.J.S.2C:43-5 shall  
46 become primarily eligible for parole consideration pursuant to a  
47 schedule of primary eligibility dates developed by the board, less  
48 adjustment for program participation. In no case shall the board

1 schedule require that the primary parole eligibility date for a young  
2 adult offender be greater than the primary parole eligibility date  
3 required pursuant to this section for the presumptive term for the  
4 crime authorized pursuant to subsection f. of N.J.S.2C:44-1.

5 e. Each adult inmate sentenced for an offense specified in  
6 N.J.S.2C:47-1 shall become primarily eligible for parole as follows:

7 (1) If the court finds that the offender's conduct was not  
8 characterized by a pattern of repetitive, compulsive behavior or  
9 finds that the offender is not amenable to sex offender treatment, or  
10 if after sentencing the Department of Corrections in its most recent  
11 examination determines that the offender is not amenable to sex  
12 offender treatment, the offender shall become primarily eligible for  
13 parole after having served any judicial or statutory mandatory  
14 minimum term or one-third of the sentence imposed where no  
15 mandatory minimum term has been imposed. Neither such term  
16 shall be reduced by commutation time for good behavior pursuant  
17 to R.S.30:4-140 or credits for diligent application to work and other  
18 institutional assignments pursuant to R.S.30:4-92.

19 (2) <sup>3</sup>~~【All other】~~ Young adult<sup>3</sup> offenders shall be eligible for  
20 parole pursuant to the provisions of N.J.S.2C:47-5, except no  
21 offender shall become primarily eligible for parole prior to the  
22 expiration of any judicial or statutory mandatory minimum term.

23 f. <sup>3</sup>~~【Each juvenile inmate committed to an indeterminate term~~  
24 ~~shall be immediately eligible for parole.】~~ (Deleted by amendment,  
25 P.L.2019, c.363)<sup>3</sup>

26 g. Each adult inmate of a county jail, workhouse or  
27 penitentiary shall become primarily eligible for parole upon service  
28 of 60 days of his aggregate sentence or as provided for in  
29 subsection a. of this section, whichever is greater. Whenever any  
30 such inmate's parole eligibility is within six months of the date of  
31 such sentence, the judge shall state such eligibility on the record  
32 which shall satisfy all public and inmate notice requirements. The  
33 chief executive officer of the institution in which county inmates  
34 are held shall generate all reports pursuant to subsection d. of  
35 section 10 of P.L.1979, c.441 (C.30:4-123.54). The parole board  
36 shall have the authority to promulgate time periods applicable to the  
37 parole processing of inmates of county penal institutions, except  
38 that no inmate may be released prior to the primary eligibility date  
39 established by this subsection, unless consented to by the  
40 sentencing judge. No inmate sentenced to a specific term of years  
41 at the State Prison or the correctional institution for women shall  
42 become primarily eligible for parole until service of a full nine  
43 months of his aggregate sentence.

44 h. When an inmate is sentenced to more than one term of  
45 imprisonment, the primary parole eligibility terms calculated  
46 pursuant to this section shall be aggregated by the board for the  
47 purpose of determining the primary parole eligibility date <sup>3</sup>~~【~~, except

1 that no juvenile commitment shall be aggregated with any adult  
2 sentence<sup>3</sup>. The board shall promulgate rules and regulations to  
3 govern aggregation under this subsection.

4 i. The primary eligibility date shall be computed by a  
5 designated representative of the board and made known to the  
6 inmate in writing not later than 90 days following the  
7 commencement of the sentence. In the case of an inmate sentenced  
8 to a county penal institution such notice shall be made pursuant to  
9 subsection g. of this section. Each inmate shall be given the  
10 opportunity to acknowledge in writing the receipt of such  
11 computation. Failure or refusal by the inmate to acknowledge the  
12 receipt of such computation shall be recorded by the board but shall  
13 not constitute a violation of this subsection.

14 j. Except as provided in this subsection, each inmate sentenced  
15 pursuant to N.J.S.2A:113-4 for a term of life imprisonment,  
16 N.J.S.2A:164-17 for a fixed minimum and maximum term or  
17 subsection b. of N.J.S.2C:1-1 shall not be primarily eligible for  
18 parole on a date computed pursuant to this section, but shall be  
19 primarily eligible on a date computed pursuant to P.L.1948, c.84  
20 (C.30:4-123.1 et seq.), which is continued in effect for this purpose.  
21 Inmates classified as second, third or fourth offenders pursuant to  
22 section 12 of P.L.1948, c.84 (C.30:4-123.12) shall become  
23 primarily eligible for parole after serving one-third, one-half or  
24 two-thirds of the maximum sentence imposed, respectively, less in  
25 each instance commutation time for good behavior and credits for  
26 diligent application to work and other institutional assignments;  
27 provided, however, that if the prosecuting attorney or the  
28 sentencing court advises the board that the punitive aspects of the  
29 sentence imposed on such inmates will not have been fulfilled by  
30 the time of parole eligibility calculated pursuant to this subsection,  
31 then the inmate shall not become primarily eligible for parole until  
32 serving an additional period which shall be one-half of the  
33 difference between the primary parole eligibility date calculated  
34 pursuant to this subsection and the parole eligibility date calculated  
35 pursuant to section 12 of P.L.1948, c.84 (C.30:4-123.12). If the  
36 prosecuting attorney or the sentencing court advises the board that  
37 the punitive aspects of the sentence have not been fulfilled, such  
38 advice need not be supported by reasons and will be deemed  
39 conclusive and final. Any such decision shall not be subject to  
40 judicial review except to the extent mandated by the New Jersey  
41 and United States Constitutions. The board shall, reasonably prior  
42 to considering any such case, advise the prosecuting attorney and  
43 the sentencing court of all information relevant to such inmate's  
44 parole eligibility.

45 k. Notwithstanding any provisions of this section to the  
46 contrary, a person sentenced to imprisonment pursuant to paragraph  
47 (2), (3) or (4) of subsection b. of N.J.S.2C:11-3 shall not be eligible  
48 for parole.

1       1. **【Notwithstanding the provisions of subsections a. through j.**  
 2       of this section, the appropriate board panel, as provided in section 1  
 3       of P.L.1997, c.214 (C.30:4-123.51c), may release an inmate serving  
 4       a sentence of imprisonment on medical parole at any time.】<sup>3</sup>(<sup>3</sup>  
 5       Deleted by amendment, P.L. , c. <sup>3</sup>[(C. )]<sup>3</sup> (pending before  
 6       the Legislature as this bill) <sup>3</sup>【.】<sup>3</sup>

7       m. (1) A person serving a custodial sentence on the effective  
 8       date of P.L. , c. (C. )(pending before the Legislature as this  
 9       bill) and subject to a mandatory minimum term of parole  
 10       ineligibility pursuant to subsection e. of section 4 of P.L.2013, c.58  
 11       (C.2C:20-2.4), subsection c. of section 6 of P.L.2013, c.58  
 12       <sup>3</sup>[(c.2c:20-2.6)] (C.2C:20-2.6)<sup>3</sup>, paragraph (4) of subsection c. of  
 13       N.J.S.2C:20-11, <sup>1</sup>[subsections g. or h. of section 4 of P.L.1984,  
 14       c.184 (C.2C:20-25),]<sup>1</sup> subsection b. of section 10 of P.L.1984,  
 15       c.184 (C.2C:20-31), <sup>1</sup>[N.J.S.2C:35-3,]<sup>1</sup> N.J.S.2C:35-4,  
 16       N.J.S.2C:35-5, N.J.S.2C:35-6, section 1 of P.L.1987, c.101  
 17       (C.2C:35-7), N.J.S.2C:35-8, or subsection f. of N.J.S.2C:43-6 shall  
 18       be eligible for parole after the effective date of P.L. , c. (C. )  
 19       (pending before the Legislature as this bill) in accordance with  
 20       subsection a. of section 1 of P.L. , c. (C. ) (pending before  
 21       the Legislature as this bill).

22       (2) Notwithstanding the provisions of section 2 of P.L.1997,  
 23       c.117 (2C:43-7.2) or any provisions of this section to the contrary, a  
 24       person sentenced prior to the effective date of P.L. , c. (C )  
 25       (pending before the Legislature as this bill) to a fixed minimum  
 26       term of 85 percent of the sentence imposed for second degree  
 27       robbery in violation of N.J.S.2C:15-1 or second degree burglary in  
 28       violation of N.J.S.2C:18-2 and who is serving a term of  
 29       incarceration after the effective date of P.L. , c. (C. )  
 30       (pending before the Legislature as this bill) shall be eligible for  
 31       parole after serving 50 percent of the fixed minimum term in  
 32       accordance with subsection b. of section 1 of P.L. , c. (C. )  
 33       (pending before the Legislature as this bill).

34       (cf: P.L.2019, c.363, s.10)

35  
 36       3. The Commissioner of Corrections shall conduct a study on  
 37       the anticipated expenses to upgrade the department's existing data  
 38       infrastructure in order to improve its ability to collect, track, and  
 39       analyze data related to the criminal justice system. The commission  
 40       shall within six months of the effective date of  
 41       P.L. , c. (pending before the Legislature as this bill) submit  
 42       a report to the Governor, and the Legislature pursuant to section 2  
 43       of P.L.1991, c.164 (C.52:14-19.1) with recommendations for  
 44       additional funding necessary for the department to invest in  
 45       upgrades to its data infrastructure.

1       <sup>2</sup>4. Section 5 of P.L.1967, c.43 (C.2A:158A-5) is amended to  
2 read as follows:

3       It shall be the duty of the Public Defender to provide for the  
4 legal representation of any indigent defendant who is formally  
5 charged with the commission of an indictable offense.

6       All necessary services and facilities of representation (including  
7 investigation and other preparation) shall be provided in every case.  
8 The factors of need and real value to a defense may be weighed  
9 against the financial constraints of the Public Defender's office in  
10 determining what are the necessary services and facilities of  
11 representation.

12       Representation as herein provided for shall include any direct  
13 appeal from conviction and such post-conviction proceedings as  
14 would warrant the assignment of counsel pursuant to the court rules.

15       Representation for indigent defendants (a) may be provided in  
16 any federal court in any matter arising out of or relating to an action  
17 pending or recently pending in a court of criminal jurisdiction of  
18 this State and (b) may be provided in any federal court in this State  
19 where indigent defendants are charged with the commission of a  
20 federal criminal offense and where the representation is under a  
21 plan adopted pursuant to the Criminal Justice Act of 1964  
22 (18 U.S.C. s. 3006A).

23       The Public Defender also shall provide for the legal  
24 representation of any eligible inmate who is serving a custodial  
25 prison sentence in matters in which a prosecutor objects to the  
26 retroactive modification of a judgment of conviction in accordance  
27 with section 1 of P.L. , c. (C. )(pending before the Legislature  
28 as this bill).<sup>2</sup>

29 (cf: P.L.1987, c.170, s.2)

30

31       <sup>2</sup>[4.] <sup>2</sup>5.<sup>2</sup> This act shall take effect <sup>2</sup>[immediately] on the first  
32 day of the sixth month following the date of enactment, provided  
33 however, that the Supreme Court, Administrative Director of the  
34 Courts, Commissioner of Corrections, Public Defender, Attorney  
35 General and county prosecutors may take such anticipatory action  
36 as deemed necessary to effectuate the provisions of this act. This  
37 act shall expire upon the entry of final orders in accordance with  
38 section 1 of this act with respect to all inmates eligible for  
39 resentencing under this act<sup>2</sup>