

ASSEMBLY LAW AND PUBLIC SAFETY COMMITTEE

STATEMENT TO

ASSEMBLY, No. 4370

with committee amendments

STATE OF NEW JERSEY

The Assembly Law and Public Safety Committee reports favorably and with committee amendments Assembly Bill No. 4370.

As amended and reported by the committee, Assembly Bill No. 4370 authorizes the Administrative Director of the Administrative Office of the Courts to issue an order to retroactively rescind the mandatory minimum period of parole ineligibility of inmates who committed certain offenses prior to the effective date of the bill. The offenses eligible for a retroactive modification of judgment include convictions for:

- being the leader of a cargo theft network;
- crimes involving theft from a cargo carrier;
- shoplifting;
- wrongful access, disclosure of information;
- maintaining or operating a controlled dangerous substance production facility;
- manufacturing, distributing, or dispensing controlled dangerous substances;
- employing a juvenile in a drug distribution scheme;
- distribution on or within 1,000 feet of school property;
- distribution to persons under the age of 18; or
- mandatory term for repeat drug offenders, unless the prosecutor files an objection.

In addition, the bill authorizes the administrative director to retroactively modify the judgments of conviction made prior to the bill's enactment to resentence an inmate to a fixed minimum term of 50 percent of the sentence of incarceration imposed in lieu of the 85 percent fixed minimum term for second degree robbery or burglary, unless the prosecutor objects.

Orders to modify judgments would remain inactive for 30 days to allow the State to identify the affected inmates and determine whether there was a basis to file an objection in any inmate's case. The bill prohibits prosecutors from filing an objection without the prior approval of the Attorney General. The Attorney General is required to provide to the Department of Corrections (DOC) notice as to the identity of each inmate for whom a determination is made to file an objection. The DOC is to notify the inmate and the inmate's attorney or, if the inmate does not have an attorney, the public defender of the

determination to file an objection. An objection is to be filed with the sentencing court, or the presiding criminal judge if the sentencing court is not still sitting, and provided to the inmate's attorney or, if the inmate does not have an attorney, the public defender.

In the event the prosecutor files an objection, the bill requires the inmate's judgment of conviction to be retroactively modified unless the court, after a hearing, finds by clear and convincing evidence that rescinding the term of parole ineligibility imposed upon the inmate would likely pose a substantial risk to public safety. The court also may find by clear and convincing evidence that aggravating factors associated with rescinding or reducing, as the case may be, the term of parole ineligibility substantially outweigh the mitigating factors of doing so.

A court that denies retroactive modification of the judgment of conviction may sentence the inmate to a period of parole ineligibility. However, the court is prohibited from imposing a period of parole ineligibility in excess of the period that would have applied prior to the prosecutor's objection. The bill allows an inmate afforded a hearing to rescind or reduce, as the case may be, the term of parole ineligibility to be represented by the public defender.

Finally, the bill requires the Commissioner of Corrections to conduct a study on the anticipated expenses to upgrade the department's existing data infrastructure in order to improve its ability to collect, track, and analyze data related to the criminal justice system. Within six months of the bill's enactment the commission is to submit a report to the Governor and the Legislature with recommendations for additional funding necessary for the department to invest in upgrades to its data infrastructure.

COMMITTEE AMENDMENTS

The committee amended the bill to:

- 1) remove from the provisions of the bill the following eligible offenses: computer criminal activity; and leader of narcotics trafficking network; and
- 2) make a technical correction.