

# ASSEMBLY LAW AND PUBLIC SAFETY COMMITTEE

## STATEMENT TO

### ASSEMBLY, No. 4372

# STATE OF NEW JERSEY

DATED: JULY 20, 2020

The Assembly Law and Public Safety Committee reports favorably Assembly Bill No. 4372.

As reported by the committee, Assembly Bill No. 4372 provides for the resentencing of certain inmates. Under the provisions of this bill, the Commissioner of Corrections is required to issue a Certificate of Eligibility for Resentencing to any inmate who: 1) committed a crime as a juvenile and was tried as an adult; 2) received an aggregate sentence of incarceration of 30 years or more; 3) has served at least 20 years of that sentence; and 4) has not been resentenced or previously sought relief under the bill.

Under the bill, an inmate who receives a Certificate of Eligibility for Resentencing and received an aggregate sentence of incarceration with a period of parole ineligibility of 20 years or more may petition the court for resentencing. The bill provides that the court, upon consideration of a petition filed by an inmate, may, in its discretion, modify, reduce, or suspend the sentence, including any minimum or mandatory sentence or a portion of the sentence imposed upon the inmate.

The bill further provides that, upon receipt of notification by the Department of Corrections that an inmate has been issued a Certificate of Eligibility for Resentencing, the sentencing court is required to order a resentencing report which is to assess the following factors: 1) the defendant's age at the time of the offense; 2) the role of the attendant characteristics of youth in the offense, including: impulsivity, risk-taking behavior, immaturity, and susceptibility to peer pressure; and 3) any obstacle the defendant may have faced as a child including: parental abuse or neglect or abuse by any other person, developmental disorders, substance abuse, addiction, trauma, poverty, and lack of education. The resentencing report is also to include the victim's position as to resentencing.

Under the bill, the prosecuting agency is required to notify any victim of the offense committed by the inmate or the nearest relative of a homicide victim of the filing of a motion for resentencing by the inmate. The court is required to give the victim the opportunity to present a written or videotaped statement at the hearing on the petition or to testify at the hearing concerning the harm suffered by the victim or family member.

Upon the filing of a motion for resentencing, the bill requires the court to conduct a hearing, unless the court finds that the Certificate of Eligibility for Resentencing issued to the inmate is not valid or its issuance was improper. At the hearing for resentencing, the court is required to determine whether the offense for which the inmate was convicted was the result of mitigating qualities of youth or whether the offense reflects irreparable corruption by consideration of the same factors used for the resentencing report and the following additional factors: 1) any effort the inmate has made prior to and while incarcerated to overcome any of the enumerated obstacles; 2) the inmate's attempt at rehabilitation since incarceration, including but not limited to participation in available rehabilitative, educational, or other programs; 3) whether the inmate poses the same risk to society that the inmate posed at the time of the initial sentence; and 4) any additional evidence of maturity, growth, self-improvement, and consideration of the welfare of others.

Under the bill, if the court finds by a preponderance of the evidence that the offense for which the inmate was convicted and sentenced did not reflect irreparable corruption, but was the result of mitigating qualities of youth, the court is required to resentence the inmate to a term that allows the inmate a meaningful opportunity for release. If the court finds that the offense reflects irreparable corruption, the court is not to resentence the inmate regardless of the findings of the mitigating qualities of youth. If the sentencing court reduces the sentence pursuant to the provisions of this bill, the sentence is not to become final for 10 days to allow the prosecutor to appeal the sentence.

The bill allows an inmate to make one motion pursuant to the bill's provisions.

Finally, the bill applies retroactively to any inmate who was sentenced as a juvenile prior to the bill's effective date.