

ASSEMBLY, No. 5865

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED JUNE 9, 2021

Sponsored by:

Assemblywoman GABRIELA M. MOSQUERA

District 4 (Camden and Gloucester)

Assemblyman RAJ MUKHERJI

District 33 (Hudson)

Assemblywoman YVONNE LOPEZ

District 19 (Middlesex)

Co-Sponsored by:

**Assemblywomen Reynolds-Jackson, Jasey, Lampitt, Downey and
Assemblyman Houghtaling**

SYNOPSIS

Establishes the “Female Inmates’ Rights Protection Act.”

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/21/2021)

1 AN ACT establishing the “Female Inmates’ Rights Protection Act,”
2 amending P.L.1977, c.102, and supplementing Title 30 of the
3 Revised Statutes.

4
5 **BE IT ENACTED** *by the Senate and General Assembly of the State*
6 *of New Jersey:*

7
8 1. (New section) This act shall be known and may be cited as
9 the “Female Inmates’ Rights Protection Act.”

10
11 2. (New section) a. The Commissioner of Corrections shall
12 ensure that any prohibited acts that subject an inmate to disciplinary
13 actions or sanctions are gender appropriate and shall establish
14 separate prohibited acts for male and female inmates.

15 b. The commissioner shall implement gender appropriate
16 disciplinary actions and sanctions for any prohibited acts committed
17 by an inmate.

18 c. The commissioner shall establish the prohibited acts and
19 implement the disciplinary actions and sanctions for prohibited acts
20 pursuant to subsections a. and b. of this section based upon the
21 following principles:

22 (1) acknowledging that gender makes a difference;

23 (2) creating an environment based on safety, respect, and dignity;

24 (3) developing policies, practices, and programs that are
25 relational and promote healthy connections to children, family,
26 significant others, and the community;

27 (4) addressing substance use disorders, trauma, and mental health
28 issues through comprehensive, integrated and culturally relevant
29 services and appropriate supervision;

30 (5) providing women with opportunities to improve their
31 socioeconomic conditions; and

32 (6) establishing a system of community supervision and reentry
33 with comprehensive, collaborative services.

34 d. The commissioner shall annually submit a report to the
35 Legislature, pursuant to section 2 of P.L.1991, c.164 (C.52:14-
36 19.1), providing a summary of all disciplinary actions and sanctions
37 imposed on inmates, which shall contain each inmate’s gender.

38 e. The commissioner shall institute mandatory in-service
39 training for every correctional police officer assigned to the Edna
40 Mahan Correctional Facility for Women regarding gender
41 responsive policies. The commissioner shall ensure that every
42 newly appointed correctional police officer completes the training
43 upon assignment to the facility and every correctional police officer
44 currently assigned to the facility completes the training within two

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.

1 years of the effective date of P.L. , c. (C.) (pending before
2 the Legislature as this bill).

3

4 3. (New section) a. The Commissioner of Corrections shall
5 establish a nursery program allowing newborn children to remain
6 with their incarcerated mothers if the female inmate gave birth to
7 the child while incarcerated in a State correctional facility.

8 b. A female inmate shall not be eligible for the nursery program
9 if:

10 (1) the inmate has been previously convicted of, adjudicated
11 delinquent for, or is currently serving a sentence imposed for any
12 crime enumerated under section 2 of P.L.1997, c.117 (C.2C:43-7.2);

13 (2) a search conducted by the Division of Child Protection and
14 Permanency in the Department of Children and Families of its child
15 abuse registry, at the request of the commissioner, reveals that an
16 incident of child abuse or neglect has been substantiated by the
17 division against the inmate;

18 (3) the inmate has outstanding warrants;

19 (4) the inmate has committed any prohibited act required to be
20 reported to the prosecutor pursuant to regulations promulgated by
21 the Commissioner of Corrections during the current period of
22 incarceration, or has committed any serious disciplinary infraction,
23 designated in regulations promulgated by the commissioner as a
24 prohibited act that is considered to be the most serious and results
25 in the most severe sanctions, within the previous two years;

26 (5) the inmate has been previously convicted of, adjudicated
27 delinquent for, or is currently serving a sentence imposed for a
28 crime committed against a person under the age of 16; or

29 (6) there is evidence of the use of a controlled dangerous
30 substance as defined in N.J.S.2C:35-2 during the inmate's
31 pregnancy.

32 c. An inmate that is eligible to participate in the program shall
33 be transferred to a residential community release program while
34 participating in the program.

35 d. Unless there is a court order regarding child custody
36 providing otherwise, a child in the program shall remain with the
37 child's mother in the residential community release program until
38 the child is two years of age or the inmate is released, whichever
39 occurs sooner.

40 e. The commissioner shall provide support services for female
41 inmates participating in the program including, but not limited to,
42 parenting classes. The inmate shall participate in all available
43 prenatal and parenting classes.

44 f. Prior to being admitted into the program, an inmate shall
45 submit to a mental health evaluation by a psychologist or
46 psychiatrist licensed in New Jersey, who, based upon the
47 evaluation, shall make a recommendation to the commissioner
48 regarding the inmate's participation in the program.

1 g. The commissioner shall provide accommodations for
2 parenting time with the child's other parent as agreed upon by the
3 inmate and the child's other parent or in accordance with a court
4 order.

5 h. The commissioner shall, in accordance with the
6 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
7 seq.), promulgate rules and regulations governing the nursery
8 program established in this section.

9
10 4. (New section) a. The Commissioner of Corrections shall
11 provide doula services to inmates who are pregnant. A person
12 providing doula services shall be permitted to attend and provide
13 assistance during labor and childbirth.

14 b. The commissioner shall allow an inmate to have a support
15 person present during labor and childbirth.

16 c. As used in this section, "doula services" means services
17 provided by a trained doula for physical, emotional, or
18 informational support to a pregnant woman before, during, and after
19 the delivery of a child including, but not limited to, support and
20 assistance during labor and childbirth; prenatal and postpartum
21 education; breastfeeding assistance; parenting education; and
22 support in the event that an inmate has been or will become
23 separated from the inmate's child.

24
25 5. Section 1 of P.L.1977, c.102 (C.9:6-8.10a) is amended to
26 read as follows:

27 1. a. All records of child abuse reports made pursuant to
28 section 3 of P.L.1971, c.437 (C.9:6-8.10), all information obtained
29 by the Department of Children and Families in investigating such
30 reports including reports received pursuant to section 20 of
31 P.L.1974, c.119 (C.9:6-8.40), and all reports of findings forwarded
32 to the child abuse registry pursuant to section 4 of P.L.1971, c.437
33 (C.9:6-8.11) shall be kept confidential and may be disclosed only
34 under the circumstances expressly authorized under subsections b.,
35 c., d., e., f., and g. herein. The department shall disclose
36 information only as authorized under subsections b., c., d., e., f.,
37 and g. of this section that is relevant to the purpose for which the
38 information is required, provided, however, that nothing may be
39 disclosed which would likely endanger the life, safety, or physical
40 or emotional well-being of a child or the life or safety of any other
41 person or which may compromise the integrity of a department
42 investigation or a civil or criminal investigation or judicial
43 proceeding. If the department denies access to specific information
44 on this basis, the requesting entity may seek disclosure through the
45 Chancery Division of the Superior Court. This section shall not be
46 construed to prohibit disclosure pursuant to paragraphs (2) and (7)
47 of subsection b. of this section.

1 Nothing in P.L.1977, c.102 (C.9:6-8.10a et seq.) shall be
2 construed to permit the disclosure of any information deemed
3 confidential by federal or State law.

4 b. The department may and upon written request, shall release
5 the records and reports referred to in subsection a., or parts thereof,
6 consistent with the provisions of P.L.1997, c.175 (C.9:6-8.83 et al.)
7 to:

8 (1) A public or private child protective agency authorized to
9 investigate a report of child abuse or neglect;

10 (2) A police or other law enforcement agency investigating a
11 report of child abuse or neglect;

12 (3) A physician who has before him a child whom he reasonably
13 suspects may be abused or neglected or an authorized member of
14 the staff of a duly designated regional child abuse diagnostic and
15 treatment center which is involved with a particular child who is the
16 subject of the request;

17 (4) A physician, a hospital director or his designate, a police
18 officer, or other person authorized to place a child in protective
19 custody when such person has before him a child whom he
20 reasonably suspects may be abused or neglected and requires the
21 information in order to determine whether to place the child in
22 protective custody;

23 (5) An agency, whether public or private, including any division
24 or unit in the Department of Human Services or the Department of
25 Children and Families, authorized to care for, treat, assess, evaluate,
26 or supervise a child who is the subject of a child abuse report, or a
27 parent, guardian, resource family parent, or other person who is
28 responsible for the child's welfare, or both, when the information is
29 needed in connection with the provision of care, treatment,
30 assessment, evaluation, or supervision to such child or such parent,
31 guardian, resource family parent, or other person and the provision
32 of information is in the best interests of the child as determined by
33 the Division of Child Protection and Permanency;

34 (6) A court or the Office of Administrative Law, upon its
35 finding that access to such records may be necessary for
36 determination of an issue before it, and such records may be
37 disclosed by the court or the Office of Administrative Law in whole
38 or in part to the law guardian, attorney, or other appropriate person
39 upon a finding that such further disclosure is necessary for
40 determination of an issue before the court or the Office of
41 Administrative Law;

42 (7) A grand jury upon its determination that access to such
43 records is necessary in the conduct of its official business;

44 (8) Any appropriate State legislative committee acting in the
45 course of its official functions, provided, however, that no names or
46 other information identifying persons named in the report shall be
47 made available to the legislative committee unless it is absolutely
48 essential to the legislative purpose;

1 (9) (Deleted by amendment, P.L.1997, c.175).

2 (10) A family day care sponsoring organization for the purpose
3 of providing information on child abuse or neglect allegations
4 involving prospective or current providers or household members
5 pursuant to P.L.1993, c.350 (C.30:5B-25.1 et seq.) and as
6 necessary, for use in administrative appeals related to information
7 obtained through a child abuse registry search;

8 (11) The Victims of Crime Compensation Board, for the purpose
9 of providing services available pursuant to the "Criminal Injuries
10 Compensation Act of 1971," P.L.1971, c.317 (C.52:4B-1 et seq.) to
11 a child victim who is the subject of such report;

12 (12) Any person appealing a department service or status action
13 or a substantiated finding of child abuse or neglect and his attorney
14 or authorized lay representative upon a determination by the
15 department or the presiding Administrative Law Judge that such
16 disclosure is necessary for a determination of the issue on appeal;

17 (13) Any person or entity mandated by statute to consider child
18 abuse or neglect information when conducting a background check
19 or employment-related screening of an individual employed by or
20 seeking employment with an agency or organization providing
21 services to children;

22 (14) Any person or entity conducting a disciplinary,
23 administrative, or judicial proceeding to determine terms of
24 employment or continued employment of an officer, employee, or
25 volunteer with an agency or organization providing services for
26 children. The information may be disclosed in whole or in part to
27 the appellant or other appropriate person only upon a determination
28 by the person or entity conducting the proceeding that the
29 disclosure is necessary to make a determination;

30 (15) The members of a county multi-disciplinary team,
31 established in accordance with State guidelines, for the purpose of
32 coordinating the activities of agencies handling alleged cases of
33 child abuse and neglect;

34 (16) A person being evaluated by the department or the court as a
35 potential care-giver to determine whether that person is willing and
36 able to provide the care and support required by the child;

37 (17) The legal counsel of a child, parent, or guardian, whether
38 court-appointed or retained, when information is needed to discuss
39 the case with the department in order to make decisions relating to
40 or concerning the child;

41 (18) A person who has filed a report of suspected child abuse or
42 neglect for the purpose of providing that person with only the
43 disposition of the investigation;

44 (19) A parent, resource family parent, or legal guardian when the
45 information is needed in a department matter in which that parent,
46 resource family parent, or legal guardian is directly involved. The
47 information may be released only to the extent necessary for the
48 requesting parent, resource family parent, or legal guardian to

1 discuss services or the basis for the department's involvement or to
2 develop, discuss, or implement a case plan for the child;

3 (20) A federal, State, or local government entity, to the extent
4 necessary for such entity to carry out its responsibilities under law
5 to protect children from abuse and neglect;

6 (21) Citizen review panels designated by the State in compliance
7 with the federal "Child Abuse Prevention and Treatment Act
8 Amendments of 1996," Pub.L.104-235;

9 (22) The Child Fatality and Near Fatality Review Board
10 established pursuant to P.L.1997, c.175 (C.9:6-8.83 et al.); [or]

11 (23) Members of a family team or other case planning group
12 formed by the Division of Child Protection and Permanency and
13 established in accordance with regulations adopted by the
14 Commissioner of Children and Families for the purpose of
15 addressing the child's safety, permanency, or well-being, when the
16 provision of such information is in the best interests of the child as
17 determined by the Division of Child Protection and Permanency ; or

18 (24) The Commissioner of Corrections for the purpose of
19 determining eligibility of inmates for the nursery program
20 established pursuant to P.L., c. (C.) (pending before the
21 Legislature as this bill).

22 Any individual, agency, board, court, grand jury, legislative
23 committee, or other entity which receives from the department the
24 records and reports referred to in subsection a., shall keep the
25 records and reports, or parts thereof, confidential and shall not
26 disclose the records and reports or parts thereof except as
27 authorized by law.

28 c. The department may share information with a child who is
29 the subject of a child abuse or neglect report, as appropriate to the
30 child's age or condition, to enable the child to understand the basis
31 for the department's involvement and to participate in the
32 development, discussion, or implementation of a case plan for the
33 child.

34 d. The department may release the records and reports referred
35 to in subsection a. of this section to any person engaged in a bona
36 fide research purpose, provided, however, that no names or other
37 information identifying persons named in the report shall be made
38 available to the researcher unless it is absolutely essential to the
39 research purpose and provided further that the approval of the
40 Commissioner of Children and Families or his designee shall first
41 have been obtained.

42 e. For incidents determined by the department to be
43 substantiated, the department shall forward to the police or law
44 enforcement agency in whose jurisdiction the child named in the
45 report resides, the identity of persons alleged to have committed
46 child abuse or neglect and of victims of child abuse or neglect, their
47 addresses, the nature of the allegations, and other relevant
48 information, including, but not limited to, prior reports of abuse or

1 neglect and names of siblings obtained by the department during its
2 investigation of a report of child abuse or neglect. The police or
3 law enforcement agency shall keep such information confidential.

4 f. The department may disclose to the public the findings or
5 information about a case of child abuse or neglect which has
6 resulted in a child fatality or near fatality. Nothing may be
7 disclosed which would likely endanger the life, safety, or physical
8 or emotional well-being of a child or the life or safety of any other
9 person or which may compromise the integrity of a department
10 investigation or a civil or criminal investigation or judicial
11 proceeding. If the department denies access to specific information
12 on this basis, the requesting entity may seek disclosure of the
13 information through the Chancery Division of the Superior Court.
14 No information may be disclosed which is deemed confidential by
15 federal or State law. The name or any other information identifying
16 the person or entity who referred the child to the department shall
17 not be released to the public.

18 g. The department shall release the records and reports referred
19 to in subsection a. of this section to a unified child care agency
20 contracted with the department pursuant to N.J.A.C.10:15-2.1 for
21 the purpose of providing information on child abuse or neglect
22 allegations involving a prospective approved home provider or any
23 adult household member pursuant to section 2 of P.L.2003, c.185
24 (C.30:5B-32) to a child's parent when the information is necessary
25 for the parent to make a decision concerning the placement of the
26 child in an appropriate child care arrangement.

27 The department shall not release any information that would
28 likely endanger the life, safety, or physical or emotional well-being
29 of a child or the life or safety of any other person.

30 (cf: P.L.2012, c.16, s.22)

31

32 6. This act shall take effect on the first day of the seventh
33 month next following enactment.

34

35

36 STATEMENT

37

38 This bill establishes the "Female Inmates' Rights Protection
39 Act."

40 Under the provisions of this bill, the Commissioner of
41 Corrections is required to ensure that any prohibited acts that
42 subject an inmate to disciplinary actions or sanctions are gender
43 appropriate and is required to establish separate prohibited acts for
44 male and female inmates. In addition, the bill requires the
45 commissioner to implement gender appropriate disciplinary actions
46 and sanctions for any prohibited acts committed by an inmate.

47 Further, the bill requires the commissioner to annually submit a
48 report to the Legislature providing a summary of all disciplinary

1 actions and sanctions imposed on inmates, which is to contain each
2 inmate's gender.

3 In addition, the commissioner is required to institute mandatory
4 in-service training for every correctional police officer assigned to
5 the Edna Mahan Correctional Facility for Women regarding gender
6 responsive policies. The commissioner is to ensure that every
7 newly appointed correctional police officer completes the training
8 upon assignment to the facility and every correctional police officer
9 currently assigned to the facility completes the training within two
10 years of the bill's effective date.

11 This bill also requires the commissioner to establish a nursery
12 program allowing newborn children to remain with their
13 incarcerated mothers if the female inmate gave birth to the child
14 while incarcerated in a State correctional facility.

15 Under the bill, an inmate is not eligible to participate in the
16 program if:

17 (1) the inmate has been previously convicted of, adjudicated
18 delinquent for, or is currently serving a sentence imposed for any
19 crime enumerated under the No Early Release Act;

20 (2) a search conducted by the Division of Child Protection and
21 Permanency in the Department of Children and Families of its child
22 abuse registry, at the request of the commissioner, reveals that an
23 incident of child abuse or neglect has been substantiated by the
24 division against the inmate ;

25 (3) the inmate has outstanding warrants;

26 (4) the inmate has committed any prohibited act required to be
27 reported to the prosecutor pursuant to regulations promulgated by
28 the Commissioner of Corrections during the current period of
29 incarceration, or has committed any serious disciplinary infraction,
30 designated in regulations promulgated by the commissioner as a
31 prohibited act that is considered to be the most serious and results
32 in the most severe sanctions, within the previous two years;

33 (5) the inmate has been previously convicted of, adjudicated
34 delinquent for, or is currently serving a sentence imposed for a
35 crime committed against a person under the age of 16; or

36 (6) there is evidence of the use of a controlled dangerous
37 substance during the inmate's pregnancy.

38 An inmate that is eligible to participate in the program is to be
39 transferred to a residential community release program while
40 participating in the program.

41 Unless there is a court order regarding child custody providing
42 otherwise, a child in the program is to remain in the residential
43 community release program until the child is two years of age or
44 until the inmate is released, whichever occurs sooner. In addition,
45 the commissioner is required to provide accommodations for
46 parenting time with the child's other parent as agreed upon by the
47 inmate and the child's other parent or in accordance with a court
48 order.

1 The commissioner is also required to provide support services
2 for female inmates participating in the program, including parenting
3 classes. The inmate is required to participate in all available
4 prenatal and parenting classes.

5 In addition, prior to being admitted into the program, an inmate
6 is required to submit to a mental health evaluation by a psychologist
7 or psychiatrist licensed in New Jersey, who, based upon the
8 evaluation, is to make a recommendation to the commissioner
9 regarding the inmate's participation in the program.

10 Finally, the bill requires the commissioner to provide doula
11 services to pregnant inmates. A person providing doula services is
12 to be permitted to attend and provide assistance during labor and
13 childbirth. In addition, the bill requires the commissioner to allow
14 an inmate to have a support person present during labor and
15 childbirth.

16 The bill defines "doula services" as services provided by a
17 trained doula for physical, emotional, or informational support to a
18 pregnant woman before, during, and after the delivery of a child,
19 including, but not limited to, support and assistance during labor
20 and childbirth, prenatal and postpartum education, breastfeeding
21 assistance, parenting education, and support in the event that an
22 inmate has been or will become separated from the inmate's child.