

# ASSEMBLY JUDICIARY COMMITTEE

## STATEMENT TO

### **ASSEMBLY, No. 4235**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: JULY 20, 2020

The Assembly Judiciary Committee reports favorably and with committee amendments Assembly Bill No. 4235.

As amended and reported by the committee, Assembly Bill No. 4235 requires public health emergency credits to be awarded to certain inmates during a public health emergency declared by the Governor. The credits would provide remission of time from the inmates' sentences. The bill also requires notice to any identifiable victim that an inmate who was awarded credits will be released, and requires the entry of a "no contact" order prohibiting the inmate from having contact with an identifiable victim under certain circumstances.

The COVID-19 death rate of inmates in New Jersey is the highest in the country. While the State of New Jersey has been severely impacted by the COVID-19 pandemic, inmates in this State have been afflicted at a particularly alarming rate, as the inability of inmates to quarantine or practice social distancing creates a higher risk to their lives. In providing a method to award these credits, it is the sponsor's intent to expedite the release of certain inmates who are approaching the end of their sentences in order to reduce the risk of harm to inmates and correctional facility staff, while simultaneously protecting the public safety.

This bill provides for public health emergency credits to be awarded to certain inmates in the event a public health emergency is declared by the Governor that arises as a result of a communicable or infectious disease, and results in the modification of correctional facility operations.

Under the bill, public health emergency credits are to be awarded to any inmate in the custody of the Department of Corrections (DOC) who is serving a sentence or receiving jail credits applicable to the sentence. The credits would provide further remission from both the maximum and minimum term of the inmate'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 award of public health emergency credits is not to limit or affect an inmate's eligibility for parole consideration.

Public health emergency credits are not to be awarded under the bill to an inmate who has been deemed a repetitive, compulsive sex offender. The bill also provides that juvenile offenders, other than those deemed to be repetitive, compulsive sex offenders, are eligible to receive public health emergency credits.

Under the amended bill, the Commissioner of Corrections or Executive Director of the Juvenile Justice Commission, as appropriate, is 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 final restraining order, resources for victims of domestic violence; and the procedures for filing a petition to dissolve a “no contact” order entered under the bill are to be made available on the DOC, Juvenile Justice Commission (JJC), and the Department of Law and Public Safety websites.

The prosecutor or Attorney General is required, not less than five days prior to the inmate or juvenile’s scheduled release date to:

- use any reasonable means available to notify any identifiable victim of the crime for which the inmate or juvenile is incarcerated of the scheduled release date; that a “no contact” order will be entered prohibiting the inmate or juvenile from having any contact with the victim, unless the victim requests that an order not be entered; the date that the order, if entered, will expire; and the penalties imposed for a violation; and
- provide information to the victim concerning how to dissolve a “no contact” order, the procedures for filing an application for a domestic violence final restraining order, and resources for victims of domestic violence.

The prosecutor or Attorney General is required to immediately notify the court and either the DOC or JJC of whether an order prohibiting the inmate from having any contact with the victim is to be entered, based on the prosecutor’s contact with the victim or inability to contact the victim.

The court is to enter an order prohibiting the inmate from having any contact with an identifiable victim if the prosecutor notifies the court that an identifiable victim does not oppose the entry of an order or the prosecutor was unable to contact the victim. Any order entered under the bill is to expire on the date that the inmate was scheduled to be released prior to the award of public health emergency credits. The court is to provide a copy of the order to the DOC or JJC, which is to

provide a copy of the order to the inmate or juvenile upon to release. An inmate or juvenile who purposely or knowingly violates a “no contact” order is guilty of a crime of the fourth degree. As crime of the fourth degree is punishable by imprisonment of up to 18 months, a fine of up to \$10,000, or both.

#### COMMITTEE AMENDMENTS

The committee amended the bill to:

(1) provide that only an inmate or juvenile who is to be released from custody within 12 months is eligible to receive public health emergency credits;

(2) reduce the award of credits from six months for each month served during an declared emergency to four months, and reduce the maximum award of credits from 12 months to eight months;

(3) provide that an inmate who was in the custody of the DOC or JJC during the coronavirus disease 2019 pandemic is to receive public health emergency credits;

(4) provide that an inmate or juvenile scheduled to be released from custody following an award of credits is to be released on the scheduled release date, except that an inmate or juvenile who is scheduled to be released on or within five days following the effective date of the bill is to be released either on the date of the entry of a “no contact” order or the date the prosecutor notifies the court that no order is to be entered, whichever occurs sooner; however, under no circumstances is the inmate to be released later than five days following the effective date of the bill;

(5) require the commissioner or executive director, as appropriate, to identify any inmate or juvenile to be released within 12 months from custody following an award of credits, and notify the appropriate court and prosecutor or Attorney General;

(6) establishes procedures for notifying any identifiable victim of the inmate’s release and entry of a “no contact” order;

(7) requires the entry of a “no contact” order prohibiting the inmate from having any contact with the victim, unless the victim objects to the entry of an order, which is to expire on the date the inmate was scheduled to be released prior to the award of credits;

(8) requires any order entered to be provided to the inmate or juvenile upon release;

(9) provide that an inmate or juvenile who purposely or knowingly violates a “no contact” order is guilty of a crime of the fourth degree; and

(10) establishes procedures for information to be provided to an identifiable victim and made publicly available on the DOC, JJC, and Department of Law and Public Safety websites concerning the filing of an application for a domestic violence final restraining order, resources for victims of domestic violence, and procedures for filing a petition to dissolve a “no contact” order.