

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

ASSEMBLY, No. 4681  
STATE OF NEW JERSEY  
219th LEGISLATURE

DATED: NOVEMBER 1, 2021

SUMMARY

**Synopsis:** Concerns residential community release programs.

**Type of Impact:** State expenditure decrease.

**Agencies Affected:** Department of Corrections.

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Cost Decrease	Indeterminate		

- The Office of Legislative Services (OLS) notes that to the extent that this bill causes a reduction in time served by State sentenced prison inmates in a State operated prison, reductions in incarceration costs could result. However, the OLS does not have adequate information on the number of inmates who would qualify under the provisions of the bill and the associated costs for housing them at residential community release program (RCRP) facilities, also known as halfway houses.

BILL DESCRIPTION

This bill expands eligibility for certain inmates to participate in a residential community release program, modifies Department of Corrections (DOC) reporting requirements concerning capacity RCRPs, and prohibits inmates in RCRPs from being returned to a correctional facility or subjected to punitive measures solely due to a medical condition or illness.

In addition to other eligibility requirements established under current law, inmates in the custody of the DOC are eligible for participation in an RCRP if the inmate is scheduled to be released from custody in less than one year and the DOC determines that the inmate’s participation in an RCRP is appropriate; or the inmate is scheduled to be released in greater than 12 months but less than 24 months and the DOC determines that the inmate’s participation in a substance use disorder treatment program is appropriate.

Under the bill, an inmate who is otherwise eligible under current law is eligible to participate in an RCRP if the inmate is scheduled to be released in less than 30 months, and the DOC determines that the inmate's participation in RCRP is appropriate; or the inmate is scheduled to be released in greater than 12 months but less than 30 months and the DOC determines that the inmate's participation in a substance use disorder treatment program is appropriate.

Under current law, the DOC is required to certify on a monthly basis to the Director of the Division of Budget and Accounting that all available RCRP beds in the State are filled to contract capacity with eligible State inmates who are within 18 to 24 months of release. The provisions of the bill require the DOC also to provide this monthly certification to the Legislature, and require the certification for eligible inmates who are within 30 to 36 months of release.

The provisions of the bill also require the DOC to prioritize the eligibility of inmates for placement in an RCRP prior to release from a State correctional facility. In prioritizing an inmate's eligibility for placement, the DOC is required to evaluate whether an inmate is eligible to receive compliance credits or public health emergency credits that may accelerate the inmate's release. The DOC also is required to make every effort to fill RCRP vacancies as they become available and maximize the provision of services to help inmates with the transition and reentry into the community.

Under the bill, an inmate, other than an inmate convicted of certain sexual offenses or arson or a related offense, who is otherwise eligible for RCRP placement is not to be deemed ineligible for participation in an RCRP solely based on the inmate's custody status. In addition, the bill provides that the administrator of an RCRP may refuse the placement of any inmate who demonstrates an undue risk to public safety.

Finally, under the bill, an inmate incarcerated in an RCRP is not to be returned to a correctional facility, or be subject to restrictive privileges or other punitive measures solely due to a medical condition or illness, including the need for medical treatment or pregnancy.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

None received. However, in an informal response pertaining costs for housing inmates in RCRPs, the DOC noted that, "based on FY 2020, expenditures were approximately \$26,000 annually/\$71.04 daily. The current vendor per diems range from \$70.80 (lowest) to \$99.84 (highest) for an average of \$78.50 times the average number of beds filled per day in a normal year. FY 2020 (COVID) was not a normal year and beds filled were halted, therefore, FY20 would not represent the most accurate figures." The DOC added that, "an estimated figure of \$28,000 is now being used, but that figure is likely to increase due to new contracts that will be issued effective January 1, 2022, with increased per diem rates."

The DOC noted that "it is highly anticipated that the current RCRP per diems will increase significantly based on the scope of work required in the contract but provide the vendor an opportunity to right size their cost based on the decrease in inmates."

### ***OFFICE OF LEGISLATIVE SERVICES***

The OLS notes that to the extent that this bill causes a reduction in time served by State sentenced prison inmates in a State operated prison, reductions in incarceration costs could result.

This bill expands the eligibility requirements to participate in residential community release programs resulting in possibly more inmates qualifying for participation. This would result in a remission of time of sentence served by certain inmates and, therefore, reduced housing costs for the DOC. Per the provisions of the bill, certain inmates could be released from incarceration with less than 30 months remaining on their sentence instead of 12 months per current law.

The DOC previously indicated to the OLS that the average annual cost to house an inmate in a State prison facility totaled \$50,590 in FY 2019. However, this amount would not accrue as State cost savings for each individual released unless the prison population declined by a number large enough for the DOC to lower bed space capacity, thereby reducing fixed costs. The department informed the OLS that if a single inmate had been diverted from State prison in FY 2019 without decreasing the number of bed spaces, the department would not have incurred marginal costs for food, wages, and clothing of \$8.74 per day, or \$3,190 for the fiscal year.

Based on data made available by the DOC, inmate counts on September 30, 2019 were at 18,909. As of September 30, 2021, there were 12,015 inmates, a decrease in inmate count by more than 36 percent. Though the inmate population has declined substantially due to new early release programs that presumably affect changes in housing costs, the OLS does not have information on the most updated marginal costs for food, wages, and clothing to the DOC.

According to data made available by the DOC, as of September 2021, there were 851 inmates residing in halfway houses. Based on information provided informally by the DOC, “an estimated figure of \$28,000 is now being used, but that figure is likely to increase due to new contracts that will be issued effective January 1, 2022, with increased per diem rates.” The DOC pointed out that it is unable to provide an estimate on the number of inmates likely to qualify for transfer to a RCRP based on the provisions of this bill. The OLS has no further information on the number of eligible inmates who would qualify under the bill. However, in response to FY 2022 OLS Discussion Points, the DOC pointed out that the reduction in RCRP beds is anticipated to be permanent due to the reduced inmate population and subsequent reduction in RCRP eligible inmates. To provide historical context, in September 2019, there were 2,651 inmates housed in RCRPs more than twice the current number of inmates housed in halfway houses.

With regard to modified reporting requirement concerning capacity of these programs, the DOC under current law is required to provide monthly reports to the Director of the Division of Budget and Accounting. With additional reporting requirements to provide reports to the Legislature with certain modified parameters per the provision of this bill, the DOC might see a nominal increase in costs.

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This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).