

ASSEMBLY, No. 5750

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED MAY 12, 2021

Sponsored by:

Assemblyman RAJ MUKHERJI

District 33 (Hudson)

Assemblywoman CLEOPATRA G. TUCKER

District 28 (Essex)

Assemblyman ANDREW ZWICKER

District 16 (Hunterdon, Mercer, Middlesex and Somerset)

Assemblyman GORDON M. JOHNSON

District 37 (Bergen)

Co-Sponsored by:

Assemblywomen Lopez, Murphy, Timberlake and Lampitt

SYNOPSIS

Prohibits retaliation against inmates in State correctional facilities who report sexual abuse; criminalizes retaliation and failure to report abuse.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 5/20/2021)

1 AN ACT prohibiting retaliation against inmates in State correctional
2 facilities who report sexual abuse and supplementing Title 30 of
3 the Revised Statutes.

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

7
8 1. a. The Commissioner of Corrections shall establish a secure,
9 reliable, and confidential method for inmates incarcerated in a State
10 correctional facility to report complaints of sexual assault or
11 harassment, physical violence, and mental abuse by correctional
12 police officers and civilian staff members. The commissioner shall
13 ensure that:

14 (1) a fee shall not be charged to report these complaints;

15 (2) there shall be an option for the inmate filing the complaint to
16 remain anonymous;

17 (3) an inmate with limited English speaking skills shall be
18 provided an opportunity to file a complaint in the inmate's native
19 language; and

20 (4) inmates shall be clearly informed that the method of
21 reporting is strictly confidential.

22 b. Inmates in the facility shall be provided with clear and
23 accurate information on how to file a confidential complaint of
24 sexual assault or harassment, physical violence, and verbal abuse
25 pursuant to this section and how to directly file a complaint with the
26 facility's Special Investigations Division.

27 c. The commissioner shall prohibit any punitive measures from
28 being taken against an inmate who files a complaint of sexual
29 assault or harassment, physical violence, and mental abuse. This
30 shall include, but not be limited to:

31 (1) transferring the inmate to any administrative segregation or
32 close custody unit which is used to house inmates for disciplinary
33 infractions;

34 (2) transferring the inmate to temporary close custody which is
35 used to house inmates for non-punitive reasons;

36 (3) changing the inmate's job assignment.

37 d. An inmate who files a complaint of sexual assault or
38 harassment, physical violence, and verbal abuse shall be offered the
39 services of a victim advocate who is not affiliated with the facility
40 with expertise in providing emotional support services related to the
41 sexual assault or harassment, physical violence, and mental abuse.

42 e. The commissioner shall institute policies and procedures to
43 monitor retaliation by any correctional police officer or civilian
44 staff member against an inmate who files a complaint alleging
45 sexual assault or harassment, physical violence, or mental abuse.
46 These policies and procedures shall comply with the standards set
47 forth in the federal Prison Rape Elimination Act (42 U.S.C. s.15601
48 et seq.).

1 f. For the purposes of this section:

2 “Job” means a work position, or an educational, vocational, or
3 treatment program that the Department of Corrections assigns and
4 designates as a job.

5 “Temporary close custody” means the non-punitive removal of
6 an inmate from the inmate general population or other assigned
7 housing and restricting the inmate to the inmate's cell or a close
8 custody unit for special observation or investigation for a period not
9 to exceed 72 hours, unless information or evidence warrants an
10 extension beyond 72 hours and the extension is approved by the
11 appropriate supervisor.

12

13 2. A correctional police officer or civilian staff member of a
14 State correctional facility is guilty of a crime of the fourth degree if
15 the officer or staff member:

16 a. retaliates against an inmate who files a complaint of sexual
17 assault or harassment, physical violence, or mental abuse pursuant
18 to the provisions of section 1 of P.L. c. (C.) (pending before
19 the Legislature as this bill); or

20 b. fails to report to the appropriate supervisor any known or
21 suspected, or any evidence or information pertaining to, sexual
22 assault or harassment, physical violence, or mental abuse of an
23 inmate by another officer or staff member.

24 c. For the purposes of this section, “retaliation” means any act
25 by a correctional police officer or other corrections employee aimed
26 at an inmate in order to punish the inmate for having reported abuse
27 or in order to keep the inmate from reporting abuse and includes,
28 but is not limited to, verbal harassment, intimidation, loss of
29 personal effects, abusive pat-frisks, and sexual assault.

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31 3. This act shall take effect on the first day of the fourth month
32 next following enactment.

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STATEMENT

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37 This bill prohibits retaliation against inmates in State
38 correctional facilities who file a complaint of sexual assault or
39 harassment, physical violence, or mental abuse against a corrections
40 officer or other staff member of the facility.

41 The bill specifically requires the Commissioner of Corrections to
42 establish a secure, reliable, and confidential method for inmates
43 incarcerated in State correctional facilities to report these
44 complaints. A fee cannot be charged to file the complaint and the
45 inmate is to have the option of remaining anonymous. Inmates are
46 to be given the opportunity to file a complaint in their native
47 language. Inmates are to be clearly informed on how to file a
48 confidential complaint, including how to file a complaint with the

1 facility's Special Investigations Division, and that the reporting of
2 the complaint is strictly confidential.

3 The bill requires the commissioner to prohibit any punitive
4 measures from being taken against an inmate who files a complaint
5 of sexual assault or harassment, physical violence, and mental
6 abuse. This includes prohibiting the inmate's transfer to
7 administrative segregation and temporary close custody. An
8 inmate's job assignment also is not to be changed.

9 Inmates are to be offered the services of a victim advocate not
10 affiliated with the facility who has expertise in providing emotional
11 support services.

12 The bill requires the commissioner to institute policies and
13 procedures to monitor retaliation by corrections officers and civilian
14 staff members against an inmate who files a complaint.

15 Finally, the bill establishes that it is a fourth degree crime for a
16 corrections officer or civilian staff member to retaliate against an
17 inmate who files a complaint. It is also a fourth degree crime for an
18 officer or staff member to fail to report to the appropriate supervisor
19 any known or suspected, or any evidence or information pertaining
20 to, sexual assault or harassment, physical violence, or mental abuse
21 of an inmate by another officer or staff member. A crime of the
22 fourth degree is punishable by a term of imprisonment of up to 18
23 months, a fine of up to \$10,000, or both.