

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 5750

STATE OF NEW JERSEY

DATED: MAY 18, 2021

The Assembly Appropriations Committee reports favorably Assembly Bill No. 5750.

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

The bill specifically requires the Commissioner of Corrections to establish a secure, reliable, and confidential method for inmates incarcerated in State correctional facilities to report these complaints. A fee cannot be charged to file the complaint and the inmate is to have the option of remaining anonymous. Inmates are to be given the opportunity to file a complaint in their native language. Inmates are to be clearly informed on how to file a confidential complaint, including how to file a complaint with the facility's Special Investigations Division, and that the reporting of the complaint is strictly confidential.

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

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

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

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

FISCAL IMPACT:

The Office of Legislative Services (OLS) estimates that this bill would result in an indeterminate annual State expenditure increase. The Department of Corrections (DOC) would have to introduce changes to establish mechanisms for inmates to report abuse by correctional staff in a confidential manner. The fiscal impact of these provisions is unclear as the bill does not specify if the DOC can utilize existing systems for reporting abuse or whether it must institute new, confidential lines of communication for inmates at State correctional facilities. The bill is also silent on whether these requirements include county correctional facilities as well. The OLS does not have sufficient information on the costs involved for establishing confidential lines of communications for reporting abuse.

Furthermore, the bill requires that speakers of languages other than English be provided an opportunity to file a complaint in the inmate's native language. The OLS is unable to estimate the number of inmates who may require translation services or the associated costs.

The bill establishes the crime of the fourth degree for retaliation against inmates who report abuse or for officers and civilian staff who fail to report to the appropriate supervisor any known abuse by other officers or civilian staff. A crime of the fourth degree is punishable by up to 18 months imprisonment, a fine up to \$10,000, or both. However, there is a presumption of non-incarceration for first-time offenders of fourth degree crimes. The following State agencies would incur caseload and expenditure increases: a) the Department of Law and Public Safety would have to prosecute additional cases; b) the Judiciary would have to adjudicate additional offenders; and c) the Office of the Public Defender may have to represent additional low-income criminal defendants. The OLS lacks sufficient information to quantify the exact fiscal impact, as it cannot be known as to how many individuals would be prosecuted, tried, and sentenced for having violated the provisions of the bill in any given fiscal year.

The State may receive indeterminate revenue from additional fines and penalties imposed on individuals convicted of the new crimes; however, the State's ability to collect criminal fines and penalties has historically been limited.