

**ASSEMBLY, No. 1826**

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**STATE OF NEW JERSEY**

**219th LEGISLATURE**

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PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

**Sponsored by:**

**Assemblywoman BRITNEE N. TIMBERLAKE**

**District 34 (Essex and Passaic)**

**SYNOPSIS**

Provides for reduction in suspended sentence, probation, or parole based on compliance with conditions of sentence; requires report on effect on recidivism.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel.



1   **AN ACT** concerning suspended sentences, probation, and parole,  
2       supplementing chapter 45 of Title 2C of the New Jersey Statutes  
3       and Title 30 of the Revised Statutes, and amending various parts  
4       of the statutory law.

5

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

8

9       1. (New section) a. A defendant who is in compliance with  
10      the conditions of suspension or probation may be entitled to an  
11      earlier discharge from the period of suspension or probation  
12      pursuant to N.J.S.2C:45-2.

13      b. A defendant's period of suspension or probation shall be  
14      reduced by 30 days for each full calendar month the defendant is in  
15      compliance. For the purposes of this section, "compliance" shall  
16      mean the absence of a violation of a condition of suspension or  
17      probation as set forth in N.J.S.2C:45-1.

18      c. A defendant who has been convicted of aggravated sexual  
19      assault, sexual assault, aggravated criminal sexual contact,  
20      kidnapping pursuant to paragraph (2) of subsection c. of  
21      N.J.S.2C:13-1, endangering the welfare of a child by engaging in  
22      sexual conduct which would impair or debauch the morals of the  
23      child pursuant to subsection a. of N.J.S.2C:24-4, endangering the  
24      welfare of a child pursuant to paragraph (3), (4), or subparagraph  
25      (a) of paragraph (5) of subsection b. of N.J.S.2C:24-4; luring or  
26      enticing pursuant to section 1 of P.L.1993, c.291 (C.2C:13-6);  
27      kidnapping pursuant to N.J.S.2C:13-1, criminal restraint pursuant to  
28      N.J.S.2C:13-2, or false imprisonment pursuant to N.J.S.2C:13-3 if  
29      the victim is a minor and the offender is not the parent of the  
30      victim; knowingly promoting prostitution of a child pursuant to  
31      paragraph (3) or paragraph (4) of subsection b. of N.J.S.2C:34-1; or  
32      an attempt to commit any of these offenses shall be ineligible to  
33      receive an earlier discharge pursuant to this section.

34      d. The court shall review a defendant's compliance and  
35      eligibility to receive a reduction under this section at least once  
36      every six months.

37

38      2. N.J.S.2C:45-2 is amended to read as follows:

39      2C:45-2. Period of Suspension or Probation; Modification of  
40      Conditions; Discharge of Defendant.

41      a. When the court has suspended imposition of sentence or has  
42      sentenced a defendant to be placed on probation, the period of the  
43      suspension shall be fixed by the court at not to exceed the maximum  
44      term which could have been imposed or more than **【5】** five years,  
45      whichever is lesser. The period of probation shall be fixed by the

**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 court at not less than **[1]** one year nor more than **[5]** five years.  
2 The period of suspension or probation may be reduced as a result of  
3 a defendant's compliance with the conditions of suspension or  
4 probation in accordance with section 1 of P.L. , c. (C. )  
5 (pending before the Legislature as this bill). The court, on  
6 application of a probation officer or of the defendant, or on its own  
7 motion, may discharge the defendant at any time.

8 b. During the period of the suspension or probation, the court,  
9 on application of a probation officer or of the defendant, or on its  
10 own motion, may (1) modify the requirements imposed on the  
11 defendants; or (2) add further requirements authorized by  
12 N.J.S.2C:45-1. The court shall eliminate any requirement that  
13 imposes an unreasonable burden on the defendant.

14 c. Upon the termination of the period of suspension or  
15 probation or the earlier discharge of the defendant, the defendant  
16 shall be relieved of any obligations imposed by the order of the  
17 court and shall have satisfied his sentence for the offense unless the  
18 defendant has failed:

19 (1) to fulfill conditions imposed pursuant to paragraph b. (11) of  
20 N.J.S.2C:45-1, in which event the court may order that the  
21 probationary period be extended for an additional period not to  
22 exceed that authorized by subsection a. of this section; or

23 (2) to fulfill the conditions imposed pursuant to subsection c. of  
24 N.J.S.2C:45-1, in which event the court shall order that the  
25 probationary period be extended for an additional period not to  
26 exceed that authorized by subsection a. of this section.

27 The extension may be entered by the court without the  
28 defendant's personal appearance if the defendant agrees to the  
29 extension.

30 Notwithstanding any provision in this section to the contrary,  
31 any order of the court prohibiting contact with a victim imposed on  
32 a defendant convicted of a sex offense shall continue in effect  
33 following the termination of probation supervision until further  
34 order of the court.

35 (cf: P.L.2007, c.133, s.5)

36

37 3. N.J.S.2C:45-3 is amended to read as follows:

38 2C:45-3. Summons or Arrest of Defendant Under Suspended  
39 Sentence or on Probation; Commitment Without Bail; Revocation  
40 and Resentence.

41 a. At any time before the discharge of the defendant or the  
42 termination of the period of suspension or probation:

43 (1) The court may summon the defendant to appear before it or  
44 may issue a warrant for his arrest;

45 (2) A probation officer or peace officer, upon request of the  
46 chief probation officer or otherwise having probable cause to  
47 believe that the defendant has failed to comply with a requirement

1 imposed as a condition of the order or that he has committed  
2 another offense, may arrest him without a warrant;

3 (3) The court, if there is probable cause to believe that the  
4 defendant has committed another offense or if he has been held to  
5 answer therefor, may commit him without bail, pending a  
6 determination of the charge by the court having jurisdiction thereof;

7 (4) The court, if satisfied that the defendant has inexcusably  
8 failed to comply with a substantial requirement imposed as a  
9 condition of the order or if he has been convicted of another  
10 offense, may revoke the suspension or probation and sentence or  
11 resentence the defendant, as provided in this section, or order the  
12 forfeiture of a reduction in the period of suspension or probation  
13 granted in accordance with section 1 of P.L. , c. (C. )  
14 (pending before the Legislature as this bill). No revocation of  
15 suspension or probation shall be based on failure to pay a fine or  
16 make restitution, unless the failure was willful.

17 b. When the court revokes a suspension or probation, it may  
18 impose on the defendant any sentence that might have been  
19 imposed originally for the offense of which he was convicted.

20 c. The commencement of a probation revocation proceeding  
21 shall toll the probationary period until termination of such  
22 proceedings. In the event that the court does not find a violation of  
23 probation, this subsection shall not operate to toll the probationary  
24 period.

25 (cf: P.L.1981, c.290, s.41)

26

27 4. Section 2 of P.L.2015, c.144 (C.2C:45-6) is amended to read  
28 as follows:

29 2. a. The Administrative Director of the Courts shall establish  
30 a program to record and analyze the recidivism of all persons  
31 sentenced to a period of probation pursuant to N.J.S.2C:43-2 and  
32 N.J.S.2C:45-1 et seq. The purpose of this program shall be to assist  
33 in measuring the effectiveness of the State's rehabilitation initiatives  
34 and programs.

35 b. The program shall record data regarding types of crimes  
36 committed by offenders that result in a sentence of probation, the  
37 arrests for all offenses committed by probationers within three years  
38 following their sentence of probation, including offenders who  
39 received an earlier discharge pursuant to section 1 of P.L. , c.  
40 (C. ) (pending before the Legislature as this bill), and any  
41 convictions resulting from the arrests, crimes committed while on  
42 probation, the number of repeat offenders and the number of  
43 probationers concurrently serving a parole sentence. These data  
44 shall be analyzed to determine whether the rates and nature of  
45 rearrests and convictions differ according to the criminal histories  
46 and personal characteristics of probationers, the treatment they  
47 received during the period of probation, participation and  
48 involvement in rehabilitation initiatives and programs, whether the

1 probationers received an earlier discharge, and such other factors as  
2 may be relevant to the purposes of this section, including, but not  
3 limited to, race, gender, ethnicity, and age.

4 c. The Administrative Director of the Courts shall prepare and  
5 disseminate to the public annual reports summarizing the recidivism  
6 rates, patterns, and other findings and analyses resultant of the  
7 information gathered pursuant to this section. These reports shall  
8 include summaries of the treatment received by the probationers  
9 and shall make recommendations concerning the effectiveness of  
10 the rehabilitation initiatives and programs. These reports shall be  
11 available to the general public and shall not contain personally  
12 identifying information. To facilitate the accessibility of these  
13 reports to the general public, the administrative director shall, to the  
14 greatest extent possible, utilize the Internet.

15 d. The Administrative Director of the Courts shall annually  
16 prepare and transmit to the Governor and the Legislature, pursuant  
17 to section 2 of P.L.1991, c.164 (C.52:14-19.1), the reports prepared,  
18 along with any recommendations the Administrative Office of the  
19 Courts may have for legislation to improve the effectiveness of the  
20 State's rehabilitation initiatives and programs.  
21 (cf: P.L.2015, c.144, s.2)

22  
23 5. (New section) a. Except as otherwise provided in subsection  
24 c. of section 2 of P.L.1994, c.130 (C.2C:43-6.4), a parolee who is in  
25 compliance with the terms of supervision may be discharged prior  
26 to the expiration of the full maximum term for which the parolee  
27 was sentenced or as authorized by the disposition.

28 b. The term of supervision of a parolee shall be reduced by 30  
29 days for each full calendar month the parolee is in compliance with  
30 the terms of supervision. For the purposes of this section,  
31 “compliance” means the absence of a violation of the conditions of  
32 parole as set forth under subsection b. of section 15 of P.L.1979,  
33 c.441 (C.30:4-123.59). The appropriate board panel shall review a  
34 parolee’s compliance and eligibility to receive a reduction under  
35 this section at least once every six months.

36 c. A person who has been sentenced to a special sentence of  
37 community supervision for life or parole supervision for life; or a  
38 parolee who has been convicted of aggravated sexual assault, sexual  
39 assault, aggravated criminal sexual contact, kidnapping pursuant to  
40 paragraph (2) of subsection c. of N.J.S.2C:13-1, endangering the  
41 welfare of a child by engaging in sexual conduct which would  
42 impair or debauch the morals of the child pursuant to subsection a.  
43 of N.J.S.2C:24-4, endangering the welfare of a child pursuant to  
44 paragraph (3), (4), or subparagraph (a) of paragraph (5) of  
45 subsection b. of N.J.S.2C:24-4; luring or enticing pursuant to  
46 section 1 of P.L.1993, c.291 (C.2C:13-6); kidnapping pursuant to  
47 N.J.S.2C:13-1, criminal restraint pursuant to N.J.S.2C:13-2, or false  
48 imprisonment pursuant to N.J.S.2C:13-3 if the victim is a minor and

1 the offender is not the parent of the victim; knowingly promoting  
2 prostitution of a child pursuant to paragraphs (3) or (4) of  
3 subsection b. of N.J.S.2C:34-1; or an attempt to commit any of  
4 these offenses shall be ineligible to receive a reduced term of  
5 supervision under this section.

6  
7 6. Section 16 of P.L.1979, c.441 (C.30:4-123.60) is amended to  
8 read as follows:

9 16. a. Any parolee who violates a condition of parole may be  
10 subject to an order pursuant to section 17 of P.L.1979,  
11 c.441 (C.30:4-123.61) providing for **one or more of the following**  
12 the parolee to: (1) **That he be required to** conform to one or more  
13 additional conditions of parole; (2) **That he** forfeit all or a part of  
14 commutation time credits granted pursuant to R.S.30:4-140 ; or (3)  
15 forfeit all or part of any reduction in the term of parole granted  
16 pursuant to section 5 of P.L. , c. (C. ) (pending before the  
17 Legislature as this bill).

18 b. Any parolee who has seriously or persistently violated the  
19 conditions of his parole, may have his parole revoked and may be  
20 returned to custody pursuant to sections 18 and 19 of P.L.1979,  
21 c.441 (C.30:4-123.62 and 30:4-123.63). The board shall be notified  
22 immediately upon the arrest or indictment of a parolee or upon the  
23 filing of charges that the parolee committed an act which, if  
24 committed by an adult, would constitute a crime. The board shall  
25 not revoke parole on the basis of new charges which have not  
26 resulted in a disposition at the trial level except that upon  
27 application by the prosecuting authority, the Juvenile Justice  
28 Commission established pursuant to section 2 of P.L.1995,  
29 c.284 (C.52:17B-170) or the Director of the State Parole Board's  
30 Division of Parole or his designee, the chairman of the board or his  
31 designee may at any time detain the parolee and commence  
32 revocation proceedings pursuant to sections 18 and 19 of P.L.1979,  
33 c.441 (C.30:4-123.62 and 30:4-123.63) when the chairman  
34 determines that the new charges against the parolee are of a serious  
35 nature and it appears that the parolee otherwise poses a danger to  
36 the public safety. In such cases, a parolee shall be informed that, if  
37 he testifies at the revocation proceedings, his testimony and the  
38 evidence derived therefrom shall not be used against him in a  
39 subsequent criminal prosecution or delinquency adjudication.

40 c. Any parolee who is convicted of a crime or adjudicated  
41 delinquent for an act which, if committed by an adult, would  
42 constitute a crime, committed while on parole shall have his parole  
43 revoked and shall be returned to custody unless the parolee  
44 demonstrates, by clear and convincing evidence at a hearing  
45 pursuant to section 19 of P.L.1979, c.441 (C.30:4-123.63), that  
46 good cause exists why he should not be returned to confinement.  
47 (cf: P.L.2001, c.141, s.5)

1       7. Section 17 of P.L.1979, c.441 (C.30:4-123.61) is amended to  
2 read as follows:

3       17. a. If the parole officer assigned to supervise a parolee has  
4 probable cause to believe that the parolee has violated a condition  
5 of his parole, such violation not being a basis for return to custody  
6 pursuant to subsection b. or c. of section 16 of P.L.1979,  
7 c.441 (C.30:4-123.60), the officer may require that the parolee  
8 appear before a designated representative of the board for a review  
9 of the parolee's adjustment.

10       b. If the board's designated representative finds that a parolee  
11 has violated a condition of his parole, such violation not being a  
12 basis for return to custody pursuant to subsection b. or c. of section  
13 16 of P.L.1979, c.441 (C.30:4-123.60), the designated  
14 representative may subject the parolee to one or **【both】** more of the  
15 actions set forth in subsection a. of section 16 of P.L.1979,  
16 c.441 (C.30:4-123.60).

17       c. A parolee or the parolee's assigned parole officer may apply  
18 to the board's designated representative for modification of the  
19 conditions of parole.

20       d. Any action to modify the conditions of parole and any  
21 forfeiture of commutation time credits or reduction in term based on  
22 compliance pursuant to section 5 of P.L. , c. (C. ) (pending  
23 before the Legislature as this bill) shall be appealable to the  
24 appropriate board panel, which may take appropriate action  
25 pursuant to subsection a. of section 16 of P.L.1979, c.441 (C.30:4-  
26 123.60), but need not conduct a hearing.  
27 (cf: P.L.1995, c.280, s.41)  
28

29       8. Section 3 of P.L.2009, c.329 (C.30:4-91.15) is amended to  
30 read as follows:

31       3. a. The Commissioner of Corrections, in conjunction with  
32 the Juvenile Justice Commission and the State Parole Board, shall  
33 establish a program to record and analyze the recidivism of all  
34 inmates and juveniles adjudicated delinquent who are released from  
35 a State correctional facility or a training school for juveniles,  
36 whether on parole or upon the completion of their maximum  
37 sentences. The purpose of this program shall be to assist in  
38 measuring the effectiveness of the State's reentry initiatives and  
39 programs.

40       b. The program shall record the arrests for all offenses  
41 committed by releasees within three years following their release  
42 and any convictions resulting from the arrests. These data shall be  
43 analyzed to determine whether the rates and nature of rearrests and  
44 convictions differ according to the criminal histories and personal  
45 characteristics of releasees, the treatment they received while  
46 confined, length of sentence, conditions of parole, participation and  
47 involvement in reentry initiatives and programs, the earlier  
48 discharge of releasees pursuant to section 5 of P.L. ,

1 c. (C.) (pending before the Legislature as this bill), and such  
2 other factors as may be relevant to the purposes of this section,  
3 including, but not limited to, race, gender, ethnicity, and age.

4 c. The commissioner shall prepare and disseminate semi-  
5 annual reports summarizing the recidivism rates, patterns, and other  
6 findings and analyses resultant of the information gathered pursuant  
7 to this section. These reports shall include summaries of the  
8 treatment received by the releasees and any participation and  
9 involvement in reentry initiatives by the releasees, and shall make  
10 recommendations concerning the effectiveness of the treatment  
11 programs and reentry initiatives. These reports shall be available to  
12 the general public and shall not contain any personally identifying  
13 information. To facilitate the accessibility of these reports to the  
14 general public, the commissioner shall, to the greatest extent  
15 possible, utilize the Internet.

16 d. The commissioner shall annually prepare and transmit to the  
17 Governor and the Legislature, pursuant to section 2 of P.L.1991,  
18 c.164 (C.52:14-19.1), a summary of the recommendations set forth  
19 in the reports prepared pursuant to subsection c. of this section,  
20 along with any recommendations the department, Juvenile Justice  
21 Commission or the State Parole Board may have for legislation to  
22 improve the effectiveness of the State's reentry initiatives and  
23 programs.

24 (cf: P.L.2015, c.144, s.1)

25  
26 9. This act shall take effect on the first day of the third month  
27 following enactment.  
28  
29

#### 30 STATEMENT

31  
32 This bill provides for a reduction in a defendant's suspended  
33 sentence, sentence of probation, or parole based on the defendant's  
34 compliance with the conditions of the sentence. The bill also  
35 requires studies and annual reports on recidivism that are required  
36 under current law to include data on the effect these reductions have  
37 on recidivism.

38 The bill is modeled on a Missouri law which grants a sentence  
39 reduction through "earned compliance credits" to certain  
40 probationers and parolees as a reward for compliance with the terms  
41 of probation or parole. This law has resulted in an average  
42 reduction of a supervisory sentence by 14 months. It is the  
43 sponsor's intent to provide similar incentives in New Jersey for  
44 compliance with the terms of a suspended sentence or a sentence of  
45 probation or parole, and to enable a person to reenter society more  
46 quickly.

47 Under current law, an earlier discharge from a period of  
48 probation may be granted to a defendant on application of a

1 probation officer, the defendant, or the court's own motion. Under  
2 the bill, a defendant's term of suspension or period of probation will  
3 be reduced as a result of a defendant's compliance with the  
4 conditions of the suspension or probation. The bill provides that the  
5 period of suspension or probation will be reduced by 30 days for  
6 each full calendar month the defendant is in compliance with the  
7 conditions of suspension or probation.

8 Currently, the Administrative Director of the Courts is required  
9 to record and analyze data concerning the recidivism of those  
10 sentenced to a period of probation, and prepare and transmit an  
11 annual report on the effectiveness of the State's rehabilitation  
12 initiatives and programs. This bill requires the Administrative  
13 Director also to consider how a reduction in the period of  
14 suspension or probation under the bill affects recidivism rates.

15 Under current law, a parolee may be granted a complete  
16 discharge from parole prior to the expiration of the full maximum  
17 term, provided: 1) the parolee has made a satisfactory adjustment  
18 while on parole; 2) that continued supervision is not required; and  
19 3) the parolee has made full payment of any fine or restitution  
20 required. Under the bill, a parolee who is in compliance with the  
21 terms of supervision also would be entitled to have the term of  
22 supervision reduced by 30 days for each full calendar month the  
23 parolee is in compliance.

24 Under current law, the Commissioner of Corrections, in  
25 conjunction with the Juvenile Justice Commission and the State  
26 Parole Board, is required to record and analyze recidivism data and  
27 issue an annual report regarding the effectiveness of the State's  
28 reentry initiatives and programs. The provisions of the bill require  
29 the data and report also to include information on parolees who  
30 receive an earlier discharge under the bill.

31 The bill provides that a person who has been sentenced to a  
32 special sentence of community supervision for life or parole  
33 supervision for life; or a parolee who has been convicted of  
34 aggravated sexual assault, sexual assault, aggravated criminal  
35 sexual contact, kidnapping pursuant to paragraph (2) of subsection  
36 c. of N.J.S.2C:13-1, endangering the welfare of a child by engaging  
37 in sexual conduct which would impair or debauch the morals of the  
38 child pursuant to subsection a. of N.J.S.2C:24-4, endangering the  
39 welfare of a child pursuant to paragraph (3), (4), or subparagraph  
40 (a) of paragraph (5) of subsection b. of N.J.S.2C:24-4; luring or  
41 enticing pursuant to section 1 of P.L.1993, c.291 (C.2C:13-6);  
42 kidnapping pursuant to N.J.S.2C:13-1, criminal restraint pursuant to  
43 N.J.S.2C:13-2, or false imprisonment pursuant to N.J.S.2C:13-3 if  
44 the victim is a minor and the offender is not the parent of the  
45 victim; knowingly promoting prostitution of a child pursuant to  
46 paragraphs (3) or (4) of subsection b. of N.J.S.2C:34-1; or an  
47 attempt to commit any of these offenses is not eligible to receive a

1 reduction in the period of suspension, probation, or parole under the  
2 bill.

3 With regard to a reduced term of suspension or probation under  
4 the bill, “compliance” is defined as the absence of a violation of a  
5 condition of suspension or probation as set forth in N.J.S.2C:45-1.  
6 With regard to an earlier discharge from parole under the bill,  
7 “compliance” is defined as the absence of a violation of the  
8 conditions of parole as set forth under subsection b. of section 15 of  
9 P.L.1979, c.441 (C.30:4-123.59). The appropriate board panel shall  
10 review a parolee’s compliance and eligibility to receive a reduction  
11 under this section at least once every six months.