LEGISLATIVE FISCAL ESTIMATE
ASSEMBLY, No. 4372
STATE OF NEW JERSEY
219th LEGISLATURE

DATED: JULY 29, 2020

SUMMARY

Synopsis: Provides for resentencing of certain inmates.

Type of Impact: Indeterminate Net Impact to the State General Fund.

Agencies Affected: Department of Corrections; State Parole Board; Administrative Office of the Courts; County Prosecutors.

Office of Legislative Services Estimate

Fiscal Impact	Year 1	Year 2	Year 3
State Cost		Indeterminate Net Impact	

- The Office of Legislative Services (OLS) estimates that this bill may result in an indeterminate expenditure decrease resulting from the release of certain inmates and an increase in certain administrative costs incurred by the Department of Corrections, the State Parole Board, the Administrative Office of the Courts, and county prosecutors to process inmate petitions for release. The OLS cannot determine the net effect to the State.

- The bill may result in an indeterminate expenditure increase to the Department of Corrections associated with assessing inmates for the "Certificate of Eligibility for Resentencing" as well as the notification process. The Administrative Office of the Courts and county prosecutors may experience increased administrative costs to process inmate petitions for release.

- The bill may result in decreased expenditures by the Department of Corrections for the incarceration and medical costs of individuals currently incarcerated in State and county prisons once those inmates are released.

BILL DESCRIPTION

This bill provides for the resentencing of certain inmates.

Under the provisions of this bill, the Commissioner of Corrections is required to issue a Certificate of Eligibility for Resentencing to any inmate who: 1) committed a crime as a juvenile and was tried as an adult; 2) received an aggregate sentence of incarceration of 30 years or more; 3) has served at least 20 years of that sentence; and 4) has not been resentenced or previously sought relief under the bill.

Under the bill, an inmate who receives a Certificate of Eligibility for Resentencing and received an aggregate sentence of incarceration with a period of parole ineligibility of 20 years or more may petition the court for resentencing. The bill provides that the court, upon consideration of a petition filed by an inmate, may, in its discretion, modify, reduce, or suspend the sentence, including any minimum or mandatory sentence or a portion of the sentence imposed upon the inmate.

The bill further provides that upon receipt of notification by the Department of Corrections that an inmate has been issued a Certificate of Eligibility for Resentencing, the sentencing court is required to order a resentencing report which is to assess the following factors: 1) the defendant's age at the time of the offense; 2) the role of the attendant characteristics of youth in the offense, including: impulsivity, risk-taking behavior, immaturity, and susceptibility to peer pressure; and 3) any obstacle the defendant may have faced as a child including: parental abuse or neglect or abuse by any other person, developmental disorders, substance abuse, addiction, trauma, poverty, and lack of education. The resentencing report is also to include the victim's position as to resentencing.

Under the bill, the prosecuting agency is required to notify any victim of the offense committed by the inmate or the nearest relative of a homicide victim of the filing of a motion for resentencing by the inmate. The court is required to give the victim the opportunity to present a written or videotaped statement at the hearing on the petition or to testify at the hearing concerning the harm suffered by the victim or family member.

Upon the filing of a motion for resentencing, the bill requires the court to conduct a hearing, unless the court finds that the Certificate of Eligibility for Resentencing issued to the inmate is not valid or its issuance was improper. At the hearing for resentencing, the court is required to determine whether the offense for which the inmate was convicted was the result of mitigating qualities of youth or whether the offense reflects irreparable corruption by consideration of the same factors used for the resentencing report and the following additional factors: 1) any effort the inmate has made prior to and while incarcerated to overcome any of the enumerated obstacles; 2) the inmate's attempt at rehabilitation since incarceration, including but not limited to participation in available rehabilitative, educational, or other programs; 3) whether the inmate poses the same risk to society that the inmate posed at the time of the initial sentence; and 4) any additional evidence of maturity, growth, self-improvement, and consideration of the welfare of others.

Under the bill, if the court finds by a preponderance of the evidence that the offense for which the inmate was convicted and sentenced did not reflect irreparable corruption, but was the result of mitigating qualities of youth, the court is required to resentence the inmate to a term that allows the inmate a meaningful opportunity for release. If the court finds that the offense reflects irreparable corruption, the court is not to resentence the inmate regardless of the findings of the mitigating qualities of youth. If the sentencing court reduces the sentence pursuant to the provisions of this bill, the sentence is not to become final for 10 days to allow the prosecutor to appeal the sentence.

Finally, the bill applies retroactively to any inmate who was sentenced as a juvenile prior to the bill's effective date.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS estimates that this bill may result in an indeterminate expenditure decrease resulting from the release of certain inmates and an increase in certain administrative costs incurred by the Department of Corrections, the State Parole Board, the Administrative Office of the Courts, and county prosecutors.

The OLS estimates that this bill may result in an indeterminate expenditure increase in certain administrative costs incurred by the Department of Corrections, the State Parole Board, the Administrative Office of the Courts, and county prosecutors.

The bill may result in indeterminate expenditures due to increased administrative costs by the Department of Corrections associated with assessing inmates for the "Certificate of Eligibility for Resentencing" as well as the notification process.

The Administrative Office of the Courts and county prosecutor's offices may experience increased administrative costs to process inmate petitions for release. The OLS anticipates that initially, this bill would result in a short term increase in 1) hearings by judges and 2) community notification by local law enforcement.

This bill may also result in cost savings for the Department of Corrections, as the department is currently funding all incarceration and medical costs for inmates, as well as the costs to incarcerate those individuals who are incarcerated in State and county prisons. According to information obtained from the DOC, the average annual per capita cost to house an inmate in a State prison facility during FY 2019 totals $50,191. However, the OLS notes that because the DOC is currently experiencing a reduction in the State sentenced prison population, the department should be able to house these additional inmates within its current institutional facilities incurring a much lower marginal cost of $8.60 per day or $3,139 annually per inmate, for food, wages and clothing.

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