

LEGISLATIVE FISCAL ESTIMATE
ASSEMBLY, No. 5865
STATE OF NEW JERSEY
219th LEGISLATURE

DATED: JUNE 21, 2021

SUMMARY

Synopsis: Establishes the “Female Inmates’ Rights Protection Act.”

Type of Impact: Annual State expenditure increase to the General Fund.

Agencies Affected: Department of Corrections, Department of Health.

Office of Legislative Services Estimate

Fiscal Impact	
Annual State Cost Increase	Indeterminate

- The Office of Legislative Services (OLS) concludes that this bill would result in an indeterminate increase in annual State costs. The bill mandates various changes in order to strengthen female inmates’ rights and protections. The OLS does not have sufficient information to estimate the costs for the provisions under this bill. However, the OLS estimates an expenditure increase due to the provision of the following services under the bill: 1) mandatory in-service training for correctional officers on gender responsive policies; 2) nursery programs for newborn children to stay with incarcerated mothers; 3) the transfer of qualifying female inmates to a residential community release program (RCRPs) facility, also known as halfway houses, so a child can stay with the mother for up to two years after birth; 4) support services including parenting classes; and 5) doula services to pregnant inmates. It is unclear as to how many of these services are currently being provided to female inmates.

BILL DESCRIPTION

This bill establishes the Female Inmates’ Rights Protection Act. Under the provisions of this bill, the Commissioner of Corrections is required to ensure that any prohibited acts that subject an inmate to disciplinary actions or sanctions are gender appropriate and is required to establish separate prohibited acts for male and female inmates. In addition, the bill requires the commissioner to implement gender appropriate disciplinary actions and sanctions for any prohibited acts committed by an inmate.

Further, the bill requires the commissioner to annually submit a report to the Legislature providing a summary of all disciplinary actions and sanctions imposed on inmates, which is to contain each inmate's gender.

In addition, the commissioner is required to institute mandatory in-service training for every correctional police officer assigned to the Edna Mahan Correctional Facility for Women regarding gender responsive policies. The commissioner is to ensure that every newly appointed correctional police officer completes the training upon assignment to the facility and every correctional police officer currently assigned to the facility completes the training within two years of the bill's effective date.

This bill also requires the commissioner to establish a nursery program allowing newborn children to remain with their incarcerated mothers if the female inmate gave birth to the child while incarcerated in a State correctional facility.

Under the bill, an inmate is not eligible to participate in the program for certain reasons described in the bill.

An inmate that is eligible to participate in the program is to be transferred to a residential community release program while participating in the program.

Unless there is a court order regarding child custody providing otherwise, a child in the program is to remain in the residential community release program until the child is two years of age or until the inmate is released, whichever occurs sooner. In addition, the commissioner is required to provide accommodations for parenting time with the child's other parent as agreed upon by the inmate and the child's other parent or in accordance with a court order.

The commissioner is also required to provide support services for female inmates participating in the program, including parenting classes. The inmate is required to participate in all available prenatal and parenting classes.

In addition, prior to being admitted into the program, an inmate is required to submit to a mental health evaluation by a psychologist or psychiatrist licensed in New Jersey, who, based upon the evaluation, is to make a recommendation to the commissioner regarding the inmate's participation in the program.

Finally, the bill requires the commissioner to provide doula services to pregnant inmates. A person providing doula services is to be permitted to attend and provide assistance during labor and childbirth. In addition, the bill requires the commissioner to allow an inmate to have a support person present during labor and childbirth.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS concludes that this bill would result in an indeterminate increase in State costs annually. The OLS is unable to provide an estimate of possible costs associated with this bill for lack of specific information. The bill mandates the following services for female inmates, including but not limited to: 1) mandatory in-service training for correctional officers on gender responsive policies; 2) establishing a nursery program for newborn children to stay with incarcerated mothers; 3) the transfer of qualifying female inmates to a RCRPs facility so a child can stay with the mother for up to two years after birth; 4) provision for support services including

parenting classes; and 5) provision for doula service to pregnant inmates. It is unclear how many of these provisions have already been implemented by the DOC. For instance, in response to the FY 2022 Assembly Budget Committee follow-up question, the Commissioner pointed out that in October 2018 the DOC instituted specialized gender responsiveness training. This training was to take in to account best practices to address gender responsiveness. The training is geared towards those working at the female correctional facility, and those units that come into contact with the female offenders. The DOC noted that all of these staff have completed training and all classes in the training academy, beginning FY 2019, receive this training.

The anticipated closure of Edna Mahan Correctional Facility for Women may result in other changes but based on FY 2022 budget follow up question response, the DOC noted that the department has established child friendly areas in the facility and enhanced medical and mental health services for the female inmates. In the FY 2022 budget address, then DOC commissioner also pointed out that the DOC was in full compliance of the Dignity for Incarcerated Primary Caretaker Parents Act and had met certain requirements for parent training modules, visitation, trauma-informed care for inmates. Although it is unclear at present, some of the requirements of this bill may overlap with the mandate of the Dignity for Incarcerated Primary Caretaker Parents Act, which would result in the bill having less of an impact on State cost increases.

The bill provides that qualifying female inmates be transferred to a halfway house, so a child can stay with the mother for up to two years after birth. As of April 2021, there were 377 female inmates housed in the Edna Mahan correctional facility. There is no information available on whether any of these female inmates were pregnant. According to some estimates, the cost of housing an inmate in a halfway house is approximately \$25,000 per year.

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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.).