

# SENATE, No. 2519

## STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED JUNE 4, 2020

**Sponsored by:**

**Senator NELLIE POU**

**District 35 (Bergen and Passaic)**

**Senator SANDRA B. CUNNINGHAM**

**District 31 (Hudson)**

**Co-Sponsored by:**

**Senators Weinberg, Vitale, Diegnan, Turner and Cruz-Perez**

**SYNOPSIS**

Requires public health emergency credits to be awarded to certain inmates during public health emergency declared by Governor.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 7/9/2020)**

1 AN ACT concerning public health emergency credits, amending  
2 N.J.S.2C:47-3, and supplementing Title 30 of the Revised  
3 Statutes and P.L.1993, c.133 (C.2A:4A-44).

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

7  
8 1. (New section) a. In addition to credits awarded pursuant to  
9 R.S.30:4-92; section 3 of P.L.2009, c.330 (C.30:4-92a); and  
10 R.S.30:4-140, whenever a public health emergency, pursuant to the  
11 "Emergency Health Powers Act," P.L.2005, c.222 (C.26:13-1 et  
12 seq.), has been declared by the Governor and is in effect, the  
13 commissioner also shall award inmates public health emergency  
14 credits in accordance with this section if the public health  
15 emergency:

16 (1) arises as a result of a communicable or infectious disease;  
17 and

18 (2) results in the modification of correctional facility operations.

19 b. Except as provided in subsection c. of this section, public  
20 health emergency credits shall be awarded to any inmate in the  
21 custody of the Department of Corrections who is serving a sentence  
22 or receiving jail credits applicable to the sentence. The credits shall  
23 provide further remission from both the maximum and minimum  
24 term of the inmate's sentence at the rate of six months for each  
25 month, or portion thereof, served during the declared emergency.  
26 An inmate shall not be awarded public health emergency credits in  
27 excess of 12 months of remission for any declared emergency.

28 c. Public health emergency credits shall not be awarded to an  
29 inmate whose conduct was characterized by a pattern of repetitive,  
30 compulsive behavior pursuant to N.J.S.2C:47-3.

31 d. Nothing in this section shall be deemed to limit or affect an  
32 inmate's eligibility for parole consideration as provided for in  
33 section 10 of P.L.1948, c.84 (C.30:4-123.1 et seq.).

34

35 2. N.J.S.2C:47-3 is amended to read as follows:

36 2C:47-3. Disposition.

37 a. If the report of the examination reveals that the offender's  
38 conduct was characterized by a pattern of repetitive, compulsive  
39 behavior and further reveals that the offender is amenable to sex  
40 offender treatment and is willing to participate in such treatment,  
41 the court shall determine whether the offender's conduct was so  
42 characterized and whether the offender is amenable to sex offender  
43 treatment and is willing to participate in such treatment and shall  
44 record its findings on the judgment of conviction.

**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       b. If the court finds that the offender's conduct was  
2 characterized by a pattern of repetitive, compulsive behavior and  
3 that the offender is amenable to sex offender treatment and is  
4 willing to participate in such treatment, the court shall, upon the  
5 recommendation of the Department of Corrections, sentence the  
6 offender to a term of incarceration to be served in the custody of the  
7 commissioner at the Adult Diagnostic and Treatment Center for sex  
8 offender treatment as provided in subsection h. of this section, or  
9 place the offender on probation with the requirement, as a condition  
10 of probation, that he receive outpatient psychological or psychiatric  
11 treatment as prescribed.

12       c. A sentence of incarceration or probation imposed pursuant to  
13 subsection b. or f. of this section shall be set in accordance with  
14 chapters 43, 44 and 45 of this Title.

15       d. The court shall impose sentence in accordance with chapters  
16 43, 44 and 45 of this Title and not as provided in subsection b. of  
17 this section if it shall appear from the report of the examination  
18 made of the offender pursuant to section N.J.S.2C:47-1 that the  
19 offender's conduct was not characterized by a pattern of repetitive,  
20 compulsive behavior or that the offender is not amenable to sex  
21 offender treatment. Notwithstanding the provisions of R.S.30:4-140  
22 or R.S.30:4-92 or any other law, a sentence imposed pursuant to  
23 this subsection on an offender who is not amenable to sex offender  
24 treatment shall not be reduced by commutation time for good  
25 behavior or credits for diligent application to work and other  
26 institutional assignments.

27       e. (Deleted by amendment, P.L.1998, c.72).

28       f. If the court finds that the offender's conduct was  
29 characterized by a pattern of repetitive, compulsive behavior and  
30 that the offender is amenable to sex offender treatment, but that the  
31 offender is not willing to participate in such treatment, the court  
32 shall sentence the offender to a term of incarceration to be served in  
33 a facility designated by the commissioner pursuant to section 2 of  
34 P.L.1969, c.22 (C.30:4-91.2). The offender shall become primarily  
35 eligible for parole in accordance with the provisions of  
36 N.J.S.2C:47-5; provided, however, no offender shall become  
37 primarily eligible for parole prior to the expiration of any judicial or  
38 statutory mandatory minimum term. An offender who meets the  
39 criteria of this subsection may, on a biennial basis, request to be  
40 transferred to the Adult Diagnostic and Treatment Center. Within  
41 90 days after receiving a request for a transfer, the Department of  
42 Corrections shall conduct a psychological examination. If, upon the  
43 completion of a psychological examination, the Department of  
44 Corrections determines that the offender is amenable to sex  
45 offender treatment and is willing to participate in such treatment,  
46 the commissioner may order the offender to be transferred to the  
47 Adult Diagnostic and Treatment Center.

1 g. Notwithstanding the provisions of R.S.30:4-140 **[or]** ,  
2 R.S.30:4-92, section 1 of P.L. c. (C. ) (pending before the  
3 Legislature as this bill), or any other law, a sentence imposed  
4 pursuant to subsection f. of this section shall not be reduced by  
5 commutation time for good behavior or credits for diligent  
6 application to work and other institutional assignments for any year  
7 or fractional part of a year that the offender is confined in a facility  
8 other than the Adult Diagnostic and Treatment Center; provided,  
9 however, if the offender is at any time transferred to the Adult  
10 Diagnostic and Treatment Center pursuant to subsection f. of this  
11 section, the sentence imposed on the offender shall be reduced by  
12 commutation time for good behavior and credits for diligent  
13 application to work and other institutional assignments for any year  
14 or fractional part of a year that the offender is incarcerated at the  
15 Adult Diagnostic and Treatment Center following the date of such  
16 transfer.

17 h. An offender sentenced to a term of incarceration pursuant to  
18 subsection b. of this section shall be confined as follows:

19 (1) If the court imposes a sentence of seven years or less, the  
20 Department of Corrections shall confine the offender to the Adult  
21 Diagnostic and Treatment Center as soon as practicable after the  
22 date of sentence.

23 (2) If the court imposes a sentence of more than seven years, the  
24 Department of Corrections shall confine the offender in a facility  
25 designated by the commissioner pursuant to section 2 of P.L.1969,  
26 c.22 (C.30:4-91.2). At least 30 days prior to the date which  
27 precedes the expiration date of the offender's sentence by five years,  
28 including any reductions for commutation time for good behavior  
29 and credits for diligent application to work and other institutional  
30 assignments, the Department of Corrections shall complete a  
31 psychological examination of the offender to determine the  
32 offender's amenability to sex offender treatment and willingness to  
33 participate in such treatment; provided, however, no such  
34 examination shall be required if less than two years has elapsed  
35 since the Department of Corrections completed a psychological  
36 examination pursuant to N.J.S.2C:47-1. If the report of the  
37 examination reveals that the offender is amenable to sex offender  
38 treatment and is willing to participate in such treatment, the  
39 offender shall be transferred to the Adult Diagnostic and Treatment  
40 Center as soon as practicable. If the report of the examination  
41 reveals that the offender is not amenable to sex offender treatment,  
42 the offender shall not be transferred to the Adult Diagnostic and  
43 Treatment Center. If the report of the examination reveals that the  
44 offender is amenable to sex offender treatment but is not willing to  
45 participate in such treatment, the offender shall not be transferred to  
46 the Adult Diagnostic and Treatment Center. An offender may, on a  
47 biennial basis, request to be transferred to the Adult Diagnostic and  
48 Treatment Center. Within 90 days after receiving a request for a

1 transfer, the Department of Corrections shall conduct a  
2 psychological examination. If, upon the completion of a  
3 psychological examination, the Department of Corrections  
4 determines that the offender is amenable to sex offender treatment  
5 and is willing to participate in such treatment, the commissioner  
6 shall order the offender to be transferred to the Adult Diagnostic  
7 and Treatment Center as soon as practicable.

8 (3) If a sentence is imposed pursuant to section 2 of P.L.1997,  
9 c.117 (C.2C:43-7.2) or if any other judicial or statutory mandatory  
10 minimum term of more than seven years is imposed, the offender  
11 shall be confined in a facility designated by the commissioner  
12 pursuant to section 2 of P.L.1969, c.22 (C.30:4-91.2). At least 30  
13 days prior to the date which precedes the expiration date of the  
14 mandatory minimum term by five years, the Department of  
15 Corrections shall complete a psychological examination of the  
16 offender to determine the offender's amenability to sex offender  
17 treatment and willingness to participate in such treatment; provided,  
18 however, no such examination shall be required if less than two  
19 years has elapsed since the Department of Corrections completed a  
20 psychological examination pursuant to N.J.S.2C:47-1. If the report  
21 of the examination reveals that the offender is amenable to sex  
22 offender treatment and is willing to participate in such treatment,  
23 the offender shall be transferred to the Adult Diagnostic and  
24 Treatment Center as soon as practicable. If the report of the  
25 examination reveals that the offender is not amenable to sex  
26 offender treatment, the offender shall not be transferred to the Adult  
27 Diagnostic and Treatment Center. If the report of the examination  
28 reveals that the offender is amenable to sex offender treatment, but  
29 is not willing to participate in such treatment, the offender shall not  
30 be transferred to the Adult Diagnostic and Treatment Center. An  
31 offender may, on a biennial basis, request to be transferred to the  
32 Adult Diagnostic and Treatment Center. Within 90 days after  
33 receiving a request for a transfer, the Department of Corrections  
34 shall conduct a psychological examination. If upon completion of a  
35 psychological examination the Department of Corrections  
36 determines that the offender is amenable to sex offender treatment  
37 and is willing to participate in such treatment, the commissioner  
38 shall order the offender to be transferred to the Adult Diagnostic  
39 and Treatment Center as soon as practicable.

40 i. Notwithstanding the provisions of R.S. 30:4-140 or R.S.  
41 30:4-92 or any other law, a sentence imposed pursuant to subsection  
42 b. of this section shall not be reduced by commutation time for good  
43 behavior or credits for diligent application to work and other  
44 institutional assignments for any year or fractional part of a year  
45 from the date the Department of Corrections determines, as a result  
46 of a psychological evaluation conducted pursuant to paragraph (2)  
47 or (3) of subsection h. of this section, that the offender is not  
48 amenable to sex offender treatment or not willing to participate in

1 such treatment; provided, however, if the offender is subsequently  
2 determined by the Department of Corrections to be amenable to sex  
3 offender treatment and willing to participate in such treatment and  
4 is transferred to the Adult Diagnostic and Treatment Center, the  
5 sentence imposed on the offender shall be reduced by commutation  
6 time for good behavior and credits for diligent application to work  
7 and other institutional assignments for any year or fractional part of  
8 a year that the offender is incarcerated at the Adult Diagnostic and  
9 Treatment Center following the date of such transfer.

10 j. An offender who is sentenced to a term of life imprisonment  
11 without eligibility for parole shall not be confined in the Adult  
12 Diagnostic and Treatment Center but shall be confined in a facility  
13 designated by the commissioner pursuant to section 2 of P.L. 1969,  
14 c.22 (C.30:4-91.2).

15 k. The commissioner shall be required to provide for the  
16 treatment of a sex offender sentenced pursuant to N.J.S.2C:47-1 et  
17 seq. only when the offender is incarcerated in the Adult Diagnostic  
18 and Treatment Center. This requirement shall not apply when the  
19 offender is incarcerated in another facility.  
20 (cf: P.L.1998, c.72, s.3)

21  
22 3. (New section) a. Except as provided in subsection b. of this  
23 section, the procedures and standards for the award of credits set  
24 forth in R.S.30:4-92; section 3 of P.L.2009, c.330 (C.30:4-92a);  
25 section 1 of P.L. c. (C. ) (pending before the Legislature as  
26 this bill); and R.S.30:4-140 shall apply to any juvenile serving a  
27 sentence in a State correctional facility operated by the Juvenile  
28 Justice Commission.

29 b. Public health emergency credits shall not be awarded to any  
30 juvenile who is deemed a repetitive, compulsive sex offender.

31  
32 4. This act shall take effect immediately.

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#### STATEMENT

36

37 This bill requires public health emergency credits to be awarded  
38 to certain inmates during a public health emergency declared by the  
39 Governor in order to provide remission of time from their  
40 sentences.

41 The COVID-19 death rate of inmates in New Jersey is the  
42 highest in the country. While the State of New Jersey has been  
43 severely impacted by the COVID-19 pandemic, inmates in this  
44 State have been afflicted at a particularly alarming rate, as the  
45 inability of inmates to quarantine or practice social distancing  
46 creates a higher risk to their lives. In providing a method to award  
47 these credits, it is the sponsor's intent to expedite the release of  
48 certain inmates who are approaching the end of their sentences in

1 order to reduce the risk of harm to inmates and correctional facility  
2 staff, while simultaneously protecting the public safety.

3 This bill provides for public health emergency credits to be  
4 awarded to certain inmates in the event a public health emergency is  
5 declared by the Governor that arises as a result of a communicable  
6 or infectious disease, and results in the modification of correctional  
7 facility operations.

8 Under the bill, public health emergency credits are to be awarded  
9 to any inmate in the custody of the Department of Corrections who  
10 is serving a sentence or receiving jail credits applicable to the  
11 sentence. The credits would provide further remission from both the  
12 maximum and minimum term of the inmate's sentence at the rate of  
13 six months for each month, or portion of each month, served during  
14 the declared emergency with a maximum of 12 months of remission  
15 to be awarded for any declared emergency period. The award of  
16 public health emergency credits is not to limit or affect an inmate's  
17 eligibility for parole consideration.

18 Public health emergency credits are not to be awarded under the  
19 bill to an inmate who has been deemed a repetitive, compulsive sex  
20 offender.

21 The bill also provides that juvenile offenders, other than those  
22 deemed to be repetitive, compulsive sex offenders, are eligible to  
23 receive public health emergency credits. The bill further provides  
24 that these juveniles are eligible to receive other credits provided  
25 under current law.