SENATE LAW AND PUBLIC SAFETY COMMITTEE

STATEMENT TO

SENATE JOINT RESOLUTION No. 79

with committee amendments

STATE OF NEW JERSEY

DATED: MAY 12, 2020

The Senate Law and Public Safety Committee reports favorably and with committee amendments Senate Joint Resolution No. 79.

As amended and reported by the committee, Senate Joint Resolution No.79 establishes the "Commission to Protect New Jersey Inmates from Sexual Assault and Sexual Misconduct" to research issues concerning the sexual victimization of inmates by correctional police officers, employees, contractors, and volunteers in this State's correctional facilities.

The 17-member commission is to be comprised of two Senators from different parties and two members of the General Assembly, also of different parties, as well four ex officio members or their designees, including the Commissioner of Corrections, the Attorney General, the Director of the Division on Women, and the Public Defender. The nine public members that are to be appointed by the Governor are to include: a former inmate of the Edna Mahan Correctional Facility for Women, a victims' rights advocate, a representative of an organization that defends civil rights or promotes social justice, a faculty member of a college or university located in this State with expertise in women's issues, a representative of a collective bargaining unit representing correctional police officers, a representative of the New Jersey Coalition Against Sexual Assault, a person with expertise on the federal Prison Rape Elimination Act of 2003 (PREA), a representative of a Quaker organization promoting lasting peace with justice, and a representative of an organization working for racial, social, and economic justice, as well as greater unity in the community.

The joint resolution specifically directs the commission to:

(1) assess the degree of a facility's compliance with the provisions of the PREA, including the PREA audit process and whether these audits should be unannounced, and determine how current standards can be strengthened to further protect the inmates from sexual assault and sexual misconduct;

(2) ascertain the current policy and procedures for investigating allegations of crimes and offenses by an inmate of sexual assault, sexual misconduct, and other criminal acts by correctional police officers, other staff members, contractors, and volunteers including the

current means of reporting these allegations and whether they should be reported to a neutral third party that is not an employee of the Department of Corrections (DOC); the parameters governing the investigation of the complaint and how it is determined if an allegation is substantiated or unsubstantiated and whether the Special Investigations Division (SID) of the DOC can fairly and impartially conduct these investigations; whether the inmates' due process rights are being protected during the investigation; how the facility prevents retaliation by a DOC employee against whom there is an allegation of sexual misconduct and whether the employee is or should be suspended, either with or without pay; and whether an inmate is receiving adequate services to deal with the trauma resulting from the sexual misconduct;

(3) explore the feasibility of increasing the female to male staff ratio in Edna Mahan Correctional Facility for Women and determine if the current policy governing cross gender searches and surveillance should include further protections for inmates;

(4) consider whether it would be appropriate to establish a citizen oversight board to monitor a facility;

(5) research the availability of additional training and technical assistance from the PREA Research Center;

(6) consider issues concerning the sexual victimization of inmates by correctional police officers, employees, contractors, and volunteers in this State's correctional facilities for males;

(7) study any other issue it deems relevant to enhance the safety and security of inmates in State correctional facilities.

The commission is required to organize within 30 days of the appointment of its members. The commission is to select a chairperson from among its members. Seven members of the commission would constitute a quorum for the transaction of business. Members of the commission are to serve without compensation, but they are to be reimbursed for necessary expenses incurred in performing their duties for the commission.

The commission is required to issue to the Governor and the Legislature a preliminary report of its findings and recommendations six months from the commission's organizational meeting and a final report, including legislative proposals, within one year of the meeting. The commission would expire upon submission of the final report, unless it deems further deliberations are necessary, in which case it may be extended for two subsequent periods of six months.

Based on past and present criminal convictions, pending criminal charges, and civil lawsuits against Edna Mahan staff and the DOC, it is fitting and proper for the Legislature to establish a commission to identify the causes and consequences of sexual assault in Edna Mahan, as well as in correctional facilities for male inmates in this State, and analyze current DOC policy and procedures to determine how they can

be modified to improve the safety and well-being of these incarcerated inmates.

COMMITTEE AMENDMENTS:

The committee amended the preamble section of the joint resolution to reflect recent information concerning criminal charges and convictions, as well as reference the United States Bureau of Justice report on sexual abuse at Edna Mahan.