

**ASSEMBLY, No. 174**

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**STATE OF NEW JERSEY**

**220th LEGISLATURE**

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PRE-FILED FOR INTRODUCTION IN THE 2022 SESSION

**Sponsored by:**

**Assemblywoman LINDA S. CARTER**

**District 22 (Middlesex, Somerset and Union)**

**Assemblywoman MILA M. JASEY**

**District 27 (Essex and Morris)**

**Assemblywoman ANGELA V. MCKNIGHT**

**District 31 (Hudson)**

**Co-Sponsored by:**

**Assemblywoman Reynolds-Jackson**

**SYNOPSIS**

Permits retroactive modification of certain judgments of conviction; requires study of DOC's anticipated expenses to upgrade data infrastructure.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel.



A174 CARTER, JASEY

2

1 AN ACT concerning criminal justice, with an emphasis on rescinding  
2 mandatory minimum periods of parole ineligibility, supplementing  
3 Title 30 of the Revised Statutes, and amending P.L.1979, c.441  
4 and P.L.1967, c.43.

5

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

8

9 1. (New section) a. The Supreme Court may issue an order to  
10 retroactively modify the judgment of conviction, in accordance with  
11 the provisions of subsection m. of section 7 of P.L.1979, c.441  
12 (C.30:4-123.51), to rescind the mandatory minimum period of  
13 parole ineligibility of any inmate convicted prior to, and who is in  
14 the custody of the Department of Corrections on, the effective date  
15 of P.L. , c. (C. ) (pending before the Legislature as this bill)  
16 who was sentenced in accordance with:

17 (1) leader of a cargo theft network pursuant to subsection e. of  
18 section 4 of P.L.2013, c.58 (C.2C:20-2.4);

19 (2) crimes involving theft from a cargo carrier pursuant to  
20 subsection c. of section 6 of P.L.2013, c.58 (C.2C:20-2.6);

21 (3) shoplifting pursuant to paragraph (4) of subsection c. of  
22 N.J.S.2C:20-11;

23 (4) wrongful access, disclosure of information pursuant to  
24 subsection b. of section 10 of P.L.1984, c.184 (C.2C:20-31);

25 (5) maintaining or operating a controlled dangerous substance  
26 production facility pursuant to N.J.S.2C:35-4;

27 (6) manufacturing, distributing, or dispensing a controlled  
28 dangerous substance or controlled substance analog pursuant to  
29 N.J.S.2C:35-5;

30 (7) employing a juvenile in a drug distribution scheme pursuant  
31 to N.J.S.2C:35-6;

32 (8) distribution on or within 1,000 feet of school property  
33 pursuant to section 1 of P.L.1987, c.101 (C.2C:35-7);

34 (9) distribution to persons under age 18 pursuant to section 1 of  
35 N.J.S.2C:35-8;

36 (10) a mandatory term for being a repeat drug offender pursuant  
37 to subsection f. of N.J.S.2C:43-6; except that this paragraph shall  
38 not apply to convictions for leader of narcotics trafficking network  
39 set forth in N.J.S.2C:35-3 or

40 (11) a mandatory term for official misconduct, N.J.S.2C:30-2,  
41 pursuant to section 6 of P.L.2007, c.49 (C.2C:43-6.5), due to the  
42 offense involving or touching the office or employment once held  
43 by the convicted and sentenced public officer or employee, unless  
44 the prosecutor objects in the case of an inmate so sentenced in  
45 accordance with any of those paragraphs.

**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. The Commissioner of Corrections shall identify, from a list  
2 of defendants sentenced for the enumerated crimes provided by the  
3 Administrative Office of the Courts, those inmates in the custody of  
4 the Department of Corrections who are eligible for resentencing  
5 under an order issued pursuant to subsection a. of this section, and  
6 provide a list of eligible inmates to the Supreme Court, the Attorney  
7 General and county prosecutors. No later than 60 days after receipt  
8 of the list, the State shall determine whether there is a basis to file  
9 an objection in any inmate's case.

10       c. A prosecutor shall not file an objection to the retroactive  
11 modification of an inmate's judgment of conviction pursuant to this  
12 section without the prior approval of the Attorney General.

13       d. The Attorney General shall provide to the Administrative  
14 Director of the Courts and to the Department of Corrections notice  
15 as to the identity of each inmate for whom a determination is made  
16 to file an objection. The Department of Corrections shall promptly  
17 notify the inmate and the inmate's attorney or, if the inmate does  
18 not have an attorney, the Public Defender of the determination to  
19 file an objection with respect to that individual.

20       e. (1) In any case in which a determination is made to file an  
21 objection to the retroactive modification of a judgment of  
22 conviction for an inmate, the prosecutor shall file any such  
23 objection with the Superior Court in the county where the  
24 conviction occurred. Any such objection shall be filed no later than  
25 60 days following receipt of the list from the Department of  
26 Corrections pursuant to subsection c. of this section, or within 30  
27 days of providing notice of a determination to file an objection  
28 pursuant to subsection e. of this section, whichever date is later.

29       (2) For those eligible inmates as to whom the prosecutor does  
30 not file an objection, the court may order the retroactive  
31 modification of those inmates' judgments of conviction in  
32 accordance with the provisions of subsection m. of section 7 of  
33 P.L.1979, c.441 (C.30:4-123.51), without conducting a hearing.

34       f. In the event the prosecutor files an objection, the inmate's  
35 judgment of conviction shall be retroactively modified in  
36 accordance with the provisions of subsection m. of section 7 of  
37 P.L.1979, c.441 (C.30:4-123.51) unless the court, after a hearing,  
38 finds by clear and convincing evidence that rescinding the term of  
39 parole ineligibility imposed upon the inmate would likely pose a  
40 substantial risk to public safety or that the aggravating factors  
41 associated with rescinding or reducing, as the case may be, the term  
42 of parole ineligibility substantially outweigh the mitigating factors  
43 of doing so.

44       g. A court that finds that an inmate's sentence applies to  
45 subsection m. of section 7 of P.L.1979, c.441 (C.30:4-123.51) may  
46 issue an order denying the retroactive modification of the judgment  
47 of conviction, or in the alternative the court may modify the  
48 judgment of conviction by rescinding the mandatory period of

1 parole ineligibility and sentencing the inmate to a period of  
2 discretionary parole ineligibility.

3 h. Any period of parole ineligibility imposed pursuant to  
4 subsection f. of this section shall not result in a period of parole  
5 ineligibility in excess of the period that otherwise would have  
6 applied under the judgment of conviction prior to modification.

7 i. An inmate who is afforded a hearing pursuant to subsection  
8 f. of this section shall be represented by the Public Defender, unless  
9 the inmate retains other counsel.

10 j. Nothing in this section shall be construed to authorize the  
11 court to modify or in any way affect any mandatory minimum term  
12 of parole ineligibility imposed pursuant to a law other than those  
13 subject to subsection m. of section 7 of P.L.1979, c.441 (C.30:4-  
14 123.51).

15

16 2. Section 7 of P.L.1979, c.441 (C.30:4-123.51) is amended to  
17 read as follows:

18 7. a. Each adult inmate sentenced to a term of incarceration in  
19 a county penal institution, or to a specific term of years at the State  
20 Prison or the correctional institution for women shall become  
21 primarily eligible for parole after having served any judicial or  
22 statutory mandatory minimum term, or one-third of the sentence  
23 imposed where no mandatory minimum term has been imposed less  
24 commutation time for good behavior pursuant to N.J.S.2A:164-24  
25 or R.S.30:4-140 and credits for diligent application to work and  
26 other institutional assignments pursuant to P.L.1972, c.115 (C.30:8-  
27 28.1 et seq.) or R.S.30:4-92. Consistent with the provisions of the  
28 New Jersey Code of Criminal Justice (N.J.S.2C:11-3, 2C:14-6,  
29 2C:43-6, 2C:43-7), commutation and work credits shall not in any  
30 way reduce any judicial or statutory mandatory minimum term and  
31 such credits accrued shall only be awarded subsequent to the  
32 expiration of the term.

33 b. Each adult inmate sentenced to a term of life imprisonment  
34 shall become primarily eligible for parole after having served any  
35 judicial or statutory mandatory minimum term, or 25 years where  
36 no mandatory minimum term has been imposed less commutation  
37 time for good behavior and credits for diligent application to work  
38 and other institutional assignments. If an inmate sentenced to a  
39 specific term or terms of years is eligible for parole on a date later  
40 than the date upon which he would be eligible if a life sentence had  
41 been imposed, then in such case the inmate shall be eligible for  
42 parole after having served 25 years, less commutation time for good  
43 behavior and credits for diligent application to work and other  
44 institutional assignments. Consistent with the provisions of the  
45 New Jersey Code of Criminal Justice (N.J.S.2C:11-3, 2C:14-6,  
46 2C:43-6, 2C:43-7), commutation and work credits shall not in any  
47 way reduce any judicial or statutory mandatory minimum term and

1 such credits accrued shall only be awarded subsequent to the  
2 expiration of the term.

3 c. Each adult inmate sentenced to a specific term of years  
4 pursuant to the "Controlled Dangerous Substances Act," P.L.1970,  
5 c.226 (C.24:21-1 et al.) shall become primarily eligible for parole  
6 after having served one-third of the sentence imposed less  
7 commutation time for good behavior and credits for diligent  
8 application to work and other institutional assignments.

9 d. Each adult inmate sentenced to an indeterminate term of  
10 years as a young adult offender pursuant to N.J.S.2C:43-5 shall  
11 become primarily eligible for parole consideration pursuant to a  
12 schedule of primary eligibility dates developed by the board, less  
13 adjustment for program participation. In no case shall the board  
14 schedule require that the primary parole eligibility date for a young  
15 adult offender be greater than the primary parole eligibility date  
16 required pursuant to this section for the presumptive term for the  
17 crime authorized pursuant to subsection f. of N.J.S.2C:44-1.

18 e. Each adult inmate sentenced for an offense specified in  
19 N.J.S.2C:47-1 shall become primarily eligible for parole as follows:

20 (1) If the court finds that the offender's conduct was not  
21 characterized by a pattern of repetitive, compulsive behavior or  
22 finds that the offender is not amenable to sex offender treatment, or  
23 if after sentencing the Department of Corrections in its most recent  
24 examination determines that the offender is not amenable to sex  
25 offender treatment, the offender shall become primarily eligible for  
26 parole after having served any judicial or statutory mandatory  
27 minimum term or one-third of the sentence imposed where no  
28 mandatory minimum term has been imposed. Neither such term  
29 shall be reduced by commutation time for good behavior pursuant  
30 to R.S.30:4-140 or credits for diligent application to work and other  
31 institutional assignments pursuant to R.S.30:4-92.

32 (2) **【All other】** Young adult offenders shall be eligible for  
33 parole pursuant to the provisions of N.J.S.2C:47-5, except no  
34 offender shall become primarily eligible for parole prior to the  
35 expiration of any judicial or statutory mandatory minimum term.

36 f. **【Each juvenile inmate committed to an indeterminate term**  
37 **shall be immediately eligible for parole.】** (Deleted by amendment,  
38 P.L.2019, c.363)

39 g. Each adult inmate of a county jail, workhouse or  
40 penitentiary shall become primarily eligible for parole upon service  
41 of 60 days of his aggregate sentence or as provided for in  
42 subsection a. of this section, whichever is greater. Whenever any  
43 such inmate's parole eligibility is within six months of the date of  
44 such sentence, the judge shall state such eligibility on the record  
45 which shall satisfy all public and inmate notice requirements. The  
46 chief executive officer of the institution in which county inmates  
47 are held shall generate all reports pursuant to subsection d. of  
48 section 10 of P.L.1979, c.441 (C.30:4-123.54). The parole board

1 shall have the authority to promulgate time periods applicable to the  
2 parole processing of inmates of county penal institutions, except  
3 that no inmate may be released prior to the primary eligibility date  
4 established by this subsection, unless consented to by the  
5 sentencing judge. No inmate sentenced to a specific term of years  
6 at the State Prison or the correctional institution for women shall  
7 become primarily eligible for parole until service of a full nine  
8 months of his aggregate sentence.

9 h. When an inmate is sentenced to more than one term of  
10 imprisonment, the primary parole eligibility terms calculated  
11 pursuant to this section shall be aggregated by the board for the  
12 purpose of determining the primary parole eligibility date **],** except  
13 that no juvenile commitment shall be aggregated with any adult  
14 sentence**].** The board shall promulgate rules and regulations to  
15 govern aggregation under this subsection.

16 i. The primary eligibility date shall be computed by a  
17 designated representative of the board and made known to the  
18 inmate in writing not later than 90 days following the  
19 commencement of the sentence. In the case of an inmate sentenced  
20 to a county penal institution such notice shall be made pursuant to  
21 subsection g. of this section. Each inmate shall be given the  
22 opportunity to acknowledge in writing the receipt of such  
23 computation. Failure or refusal by the inmate to acknowledge the  
24 receipt of such computation shall be recorded by the board but shall  
25 not constitute a violation of this subsection.

26 j. Except as provided in this subsection, each inmate sentenced  
27 pursuant to N.J.S.2A:113-4 for a term of life imprisonment,  
28 N.J.S.2A:164-17 for a fixed minimum and maximum term or  
29 subsection b. of N.J.S.2C:1-1 shall not be primarily eligible for  
30 parole on a date computed pursuant to this section, but shall be  
31 primarily eligible on a date computed pursuant to P.L.1948, c.84  
32 (C.30:4-123.1 et seq.), which is continued in effect for this purpose.  
33 Inmates classified as second, third or fourth offenders pursuant to  
34 section 12 of P.L.1948, c.84 (C.30:4-123.12) shall become  
35 primarily eligible for parole after serving one-third, one-half or  
36 two-thirds of the maximum sentence imposed, respectively, less in  
37 each instance commutation time for good behavior and credits for  
38 diligent application to work and other institutional assignments;  
39 provided, however, that if the prosecuting attorney or the  
40 sentencing court advises the board that the punitive aspects of the  
41 sentence imposed on such inmates will not have been fulfilled by  
42 the time of parole eligibility calculated pursuant to this subsection,  
43 then the inmate shall not become primarily eligible for parole until  
44 serving an additional period which shall be one-half of the  
45 difference between the primary parole eligibility date calculated  
46 pursuant to this subsection and the parole eligibility date calculated  
47 pursuant to section 12 of P.L.1948, c.84 (C.30:4-123.12). If the  
48 prosecuting attorney or the sentencing court advises the board that

1 the punitive aspects of the sentence have not been fulfilled, such  
2 advice need not be supported by reasons and will be deemed  
3 conclusive and final. Any such decision shall not be subject to  
4 judicial review except to the extent mandated by the New Jersey  
5 and United States Constitutions. The board shall, reasonably prior  
6 to considering any such case, advise the prosecuting attorney and  
7 the sentencing court of all information relevant to such inmate's  
8 parole eligibility.

9 k. Notwithstanding any provisions of this section to the  
10 contrary, a person sentenced to imprisonment pursuant to paragraph  
11 (2), (3) or (4) of subsection b. of N.J.S.2C:11-3 shall not be eligible  
12 for parole.

13 1. **【**Notwithstanding the provisions of subsections a. through j.  
14 of this section, the appropriate board panel, as provided in section 1  
15 of P.L.1997, c.214 (C.30:4-123.51c), may release an inmate serving  
16 a sentence of imprisonment on medical parole at any time.**】**  
17 (Deleted by amendment, P.L. , c. (pending before the Legislature  
18 as this bill)

19 m. A person serving a custodial sentence on the effective date  
20 of P.L. , c. (C. )(pending before the Legislature as this bill)  
21 and subject to a mandatory minimum term of parole ineligibility  
22 pursuant to subsection e. of section 4 of P.L.2013, c.58 (C.2C:20-  
23 2.4), subsection c. of section 6 of P.L.2013, c.58 (C.2C:20-2.6),  
24 paragraph (4) of subsection c. of N.J.S.2C:20-11, subsection b. of  
25 section 10 of P.L.1984, c.184 (C.2C:20-31), N.J.S.2C:35-4,  
26 N.J.S.2C:35-5, N.J.S.2C:35-6, section 1 of P.L.1987, c.101  
27 (C.2C:35-7), N.J.S.2C:35-8, or subsection f. of N.J.S.2C:43-6 shall  
28 be eligible for parole after the effective date of P.L. , c. (C. )  
29 (pending before the Legislature as this bill) in accordance with  
30 subsection a. of section 1 of P.L. , c. (C. ) (pending before  
31 the Legislature as this bill).  
32 (cf: P.L.2019, c.363, s.10)

33  
34 3. The Commissioner of Corrections shall conduct a study on  
35 the anticipated expenses to upgrade the department's existing data  
36 infrastructure in order to improve its ability to collect, track, and  
37 analyze data related to the criminal justice system. The commission  
38 shall within six months of the effective date of P.L. , c.  
39 (pending before the Legislature as this bill) submit a report to the  
40 Governor, and the Legislature pursuant to section 2 of P.L.1991,  
41 c.164 (C.52:14-19.1) with recommendations for additional funding  
42 necessary for the department to invest in upgrades to its data  
43 infrastructure.

44  
45 4. Section 5 of P.L.1967, c.43 (C.2A:158A-5) is amended to  
46 read as follows:

1 It shall be the duty of the Public Defender to provide for the  
2 legal representation of any indigent defendant who is formally  
3 charged with the commission of an indictable offense.

4 All necessary services and facilities of representation (including  
5 investigation and other preparation) shall be provided in every case.  
6 The factors of need and real value to a defense may be weighed  
7 against the financial constraints of the Public Defender's office in  
8 determining what are the necessary services and facilities of  
9 representation.

10 Representation as herein provided for shall include any direct  
11 appeal from conviction and such post-conviction proceedings as  
12 would warrant the assignment of counsel pursuant to the court rules.

13 Representation for indigent defendants (a) may be provided in  
14 any federal court in any matter arising out of or relating to an action  
15 pending or recently pending in a court of criminal jurisdiction of  
16 this State and (b) may be provided in any federal court in this State  
17 where indigent defendants are charged with the commission of a  
18 federal criminal offense and where the representation is under a  
19 plan adopted pursuant to the Criminal Justice Act of 1964  
20 (18 U.S.C. s. 3006A).

21 The Public Defender also shall provide for the legal  
22 representation of any eligible inmate who is serving a custodial  
23 prison sentence in matters in which a prosecutor objects to the  
24 retroactive modification of a judgment of conviction in accordance  
25 with section 1 of P.L. , c. (C. )(pending before the Legislature  
26 as this bill).

27 (cf: P.L.1987, c.170, s.2)

28

29 5. This act shall take effect on the first day of the sixth month  
30 following the date of enactment, provided however, that the  
31 Supreme Court, Administrative Director of the Courts,  
32 Commissioner of Corrections, Public Defender, Attorney General  
33 and county prosecutors may take such anticipatory action as  
34 deemed necessary to effectuate the provisions of this act. This act  
35 shall expire upon the entry of final orders in accordance with  
36 section 1 of this act with respect to all inmates eligible for  
37 resentencing under this act.

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#### STATEMENT

41

42 This bill, concerns criminal justice, with an emphasis on the  
43 retroactive modification of inmates' existing sentences with mandatory  
44 minimum terms of imprisonment, which under current law are  
45 typically fixed at, or between, one-third and one-half of the sentence  
46 imposed, by:

47 (1) permitting the retroactive modification of judgments of  
48 conviction to rescind mandatory minimum periods of parole



1 ineligibility for any inmates who were State or local officers or  
2 employees convicted of official misconduct, N.J.S.2C:30-2, pursuant  
3 to section 6 of P.L.2007, c.49 (C.2C:43-6.5), due to the offense  
4 involving or touching the office or employment they once held; and

5 (2) implementing several of the recommendations contained in the  
6 first annual report of the New Jersey Criminal Sentencing and  
7 Disposition Commission (the CSDC), created by P.L.2009, c.81  
8 (C.2C:48A-1 et seq.) but delayed in being constituted and actively  
9 reviewing the State's sentencing laws, which recommendations mostly  
10 deal with the retroactive modification of judgments of conviction that  
11 would rescind mandatory minimum periods of parole ineligibility for  
12 inmates convicted of various nonviolent drug-related and property  
13 crimes. For category (2), the bill represents the retroactive application  
14 of Recommendations 1 and 3 of the commission's report (presented as  
15 Recommendation 4), issued in November 2019.

16 Additionally, the bill would require the Commissioner of  
17 Corrections to conduct a study of the Department of Correction's  
18 anticipated expenses to upgrade the department's data infrastructure  
19 in order to improve the collection, tracking, and analysis of data  
20 related to the criminal justice system, which is based on the  
21 commission's Recommendation 9, calling for funding for this  
22 purpose.

23 With respect to the retroactive modification of judgments to  
24 rescind mandatory minimum periods of parole ineligibility, the  
25 commissioner would identify inmates who were sentenced for any of  
26 the following offenses prior to the bill's effective date (the first day of  
27 the sixth month following enactment), and who are in the custody of  
28 the Department of Corrections, as eligible for resentencing in  
29 accordance with the bill's procedures:

30 -a mandatory term for official misconduct, N.J.S.2C:30-2, pursuant  
31 to section 6 of P.L.2007, c.49 (C.2C:43-6.5), due to the offense  
32 involving or touching the public office or employment they once held;

33 -maintaining or operating a controlled dangerous substance  
34 production facility used to manufacture methamphetamine, lysergic  
35 acid diethylamide (LSD), phencyclidine (PCP or "angel dust"), gamma  
36 hydroxybutyrate (e.g, one form of "date rape" drug), flunitrazepam  
37 (e.g., "Rohypnol" or "roofies," another "date rape" drug), marijuana in  
38 an amount greater than five pounds or ten plants or any substance  
39 listed in Schedule I or II, see N.J.S.2C:35-4;

40 -manufacturing, distributing, or dispensing heroin or coca leaves in  
41 a quantity of five ounces or more, lysergic acid diethylamide (LSD) in  
42 a quantity of 100 milligrams or more, or phencyclidine (PCP or "angel  
43 dust") in a quantity of 10 grams or more, see paragraphs (1) and (6) of  
44 subsection b. of N.J.S.2C:35-5;

45 -employing a juvenile in a drug distribution scheme, see  
46 N.J.S.2C:35-6;

1 -distribution of a controlled dangerous substance on or within  
2 1,000 feet of school property, see subsection a. of section 1 of  
3 P.L.1987, c.101 (C.2C:35-7);

4 -distribution of a controlled dangerous substance to persons under  
5 the age of 18 years or pregnant females, see N.J.S.2C:35-8;

6 -a repeat drug offender, with a conviction for any of the above  
7 listed crimes other than N.J.S.2C:35-8, distribution to persons under  
8 the age of 18 years or pregnant females, plus a previous conviction  
9 under N.J.S.2C:35-5 for manufacturing, distributing, dispensing, or  
10 possessing with intent to manufacture, dispense, or distribute a  
11 controlled dangerous substance, unless that repeat offender is serving  
12 a mandatory term for being a leader of a narcotics trafficking  
13 network, N.J.S.2C:35-3, which term could not be modified;

14 -a second or subsequent offense as leader of a cargo theft network,  
15 see subsection e. of section 4 of P.L.2013, c.58 (C.2C:20-2.4);

16 -a second or subsequent offense involving theft from a cargo  
17 carrier, see subsection c. of section 6 of P.L.2013, c.58 (C.2C:20-2.6);

18 -a third or subsequent offense for shoplifting, see paragraph (4) of  
19 subsection c. of N.J.S.2C:20-11; and

20 -wrongful electronic access and disclosure of information, see  
21 subsection b. of section 10 of P.L.1984, c.184 (C.2C:20-31).

22 The list of eligible inmates would be provided to the Supreme  
23 Court, the Attorney General, and county prosecutors by the  
24 Commissioner of Corrections. The Supreme Court could issue an  
25 order affecting inmates appearing on the commissioner's list, either  
26 rescinding or reducing mandatory minimum periods of parole  
27 ineligibility, as applicable per the above described offenses, unless  
28 there is an objection made against an inmate.

29 The Attorney General and county prosecutors, with the prior  
30 approval of the Attorney General, could file objections against the  
31 potential resentencing of any inmate appearing on the list. Any such  
32 objection would have to be filed in Superior Court in the county in  
33 which the conviction occurred, no later than 60 days following receipt  
34 of the list from the commissioner, or within 30 days of providing  
35 notice to the Administrative Office of the Courts and Department of  
36 Corrections of an initial determination to file an objection, whichever  
37 date was later.

38 Anytime the department was notified of a determination to file an  
39 objection against an inmate's resentencing, the department would be  
40 required to promptly notify the inmate and the inmate's attorney, or  
41 the Public Defender if an inmate did not have an attorney. The Public  
42 Defender would be required to represent any inmate concerning an  
43 objection to resentencing if that inmate was not represented by an  
44 attorney. If, after making an initial determination to file an objection,  
45 no such objection is filed against an inmate, a court could proceed with  
46 resentencing that inmate without conducting a hearing.

47 The bill provides that resentencing should be ordered, even when  
48 objected to, unless the court finds by clear and convincing evidence

1 after holding a hearing that *rescinding* a term of parole eligibility  
2 previously imposed would likely pose a substantial risk to public  
3 safety, or that the aggravating factors associated with *rescinding or*  
4 *reducing*, as the case may be, a term of parole ineligibility  
5 substantially outweigh the mitigating factors of doing so.

6 For inmates whose mandatory period of parole ineligibility is  
7 rescinded, the court would modify the original sentence to impose a  
8 period of discretionary parole ineligibility. For inmates whose fixed  
9 minimum terms of imprisonment were reduced from 85 percent of the  
10 sentence imposed to 50 percent of that sentence, the court would add  
11 an additional period of discretionary parole ineligibility. Any such  
12 period of parole ineligibility imposed pursuant to the bill's  
13 resentencing procedures could not result in a period of parole  
14 ineligibility in excess of the period that otherwise would have been  
15 imposed under an inmate's original sentence.

16 Regarding the aforementioned study of anticipated expenses for  
17 upgrading the Department of Correction's data infrastructure, the  
18 bill would require the Commissioner of Corrections to submit a  
19 report on this study to the Governor and Legislature within six  
20 months of the bill's effective date. This report would include  
21 recommendations for additional funding found necessary for the  
22 department to invest in upgrades to its data infrastructure to  
23 improve the collection, tracking, and analysis of data related to the  
24 criminal justice system.