SENATE, No. 761

STATE OF NEW JERSEY

218th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2018 SESSION

Sponsored by:
Senator SANDRA B. CUNNINGHAM
District 31 (Hudson)

Co-Sponsored by:
Senators Pou, Weinberg, Cardinale, Stack and Turner

SYNOPSIS

"Earn Your Way Out Act"; requires DOC to develop inmate reentry plan; establishes administrative parole release for certain inmates; requires study and report by DOC on fiscal impact.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.

AN ACT concerning prisoner reentry, and amending and supplementing various parts of the statutory law.

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

1. (New section) This act shall be known and may be cited as the "Earn Your Way Out Act."

2. (New section) As used in this act:

"Administrative parole release" means the release of an adult inmate who has met the criteria set forth in section 4 of P.L. , c. (C.) (pending before the Legislature as this bill) at the time of primary or subsequent parole eligibility. Administrative parole release occurs after a hearing officer reviews the preparole report and the inmate is certified for release by an assigned member of the board panel. Administrative parole release shall not require a parole consideration hearing.

"Reentry plan" means a plan prepared by appropriate staff within the Department of Corrections Division of Reentry and Rehabilitative Services designed to prepare an inmate for successful integration as a productive, law-abiding citizen upon release from incarceration.

3. (New section) a. The Commissioner of Corrections shall establish a Division of Reentry and Rehabilitative Services to coordinate reentry preparation and other rehabilitative services within all State correctional facilities, and act as a liaison to the State Parole Board, pursuant to P.L. , c. (C.) (pending before the Legislature as this bill).

Appropriate staff within the division shall be responsible for engaging with each inmate to develop and implement an individualized, comprehensive reentry plan for services during the inmate's incarceration. This plan may be refined and updated during incarceration as needed, and shall include recommendations for community services prior to the inmate's actual return to the community. The comprehensive reentry plan shall be designed to prepare an inmate for successful integration as a productive, law-abiding citizen upon release from incarceration. Appropriate staff within the division shall coordinate with appropriate departments within the Department of Corrections, the State Parole Board, and the community, to determine what medical, psychiatric, psychological, educational, vocational, substance abuse, and social rehabilitative services shall be incorporated into a comprehensive reentry plan in order to prepare each inmate for successful

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.

integration upon release. The Department of Corrections shall establish guidelines, timelines, and procedures to govern the institutional reentry plan process.

b. The division, in coordination with the State Parole Board and the community, shall compile and disseminate to inmates information concerning organizations and programs, whether faith-based or secular programs, which provide assistance and services to inmates reentering society after a period of incarceration. In compiling this information, the coordinator shall consult with non-profit entities, including but not limited to the New Jersey Institute for Social Justice, that provide informational services concerning reentry, and the Executive Director of the Office of Faith-based Initiatives in the Department of State, and the Corrections Ombudsperson in, but not of, the Department of the Treasury.

c. The division shall ensure that all inmates are made aware of and referred to organizations which provide services in the county where the inmate is to reside after being released from incarceration. The division shall assist inmates in gaining access to programs and procuring the appropriate services.

d. The Department of Corrections may employ professional and clerical staff as necessary within the limits of available appropriations.

4. (New section) a. Notwithstanding the provisions of subsection a. of section 9 of P.L.1979, c.441 (C.30:4-123.53), an adult inmate shall be administratively released on parole at the time of primary or subsequent parole eligibility provided that:

(1) the inmate has not been previously convicted of, adjudicated delinquent for, or is currently serving a sentence imposed for any crime enumerated in subsection d. of section 2 of P.L.1997, c.117 (C.2C:43-7.2); subsection b. of section 2 of P.L.1994, c.133 (C.2C:7-2); or section 3 of P.L.1998, c.71 (C.30:4-27.26);

(2) the inmate has not committed any prohibited acts required to be reported to the prosecutor pursuant to regulations promulgated by the commissioner during the current period of incarceration, and has not committed any serious disciplinary infraction, designated in regulations promulgated by the commissioner as a prohibited act that is considered to be the most serious and results in the most severe sanctions, within the previous two years;

(3) the inmate has completed relevant rehabilitation programs available at the correctional facility or applied for but was unable to complete or was denied access to these programs due to circumstances beyond the inmate's control including, but not limited to, capacity limitations or exclusionary policies of these programs; and

(4) crime victims have received notification as required by law.

b. In the case of an inmate who meets the criteria set forth in this section for administrative parole release, a hearing shall not be

required pursuant to section 11 of P.L.1979, c.441 (C.30:4-123.55). An inmate released on parole pursuant to subsection a. of this section shall, during the term of parole supervision, remain in the legal custody of the Commissioner of Corrections, be supervised by the Division of Parole of the State Parole Board, and be subject to the provisions and conditions established by the appropriate board panel in accordance with the procedures and standards set forth in section 15 of P.L.1979, c.441 (C.30:4-123.59). If the parolee violates a condition of parole, the parolee shall be subject to the provisions of sections 16 through 19 of P.L.1979, c.441 (C.30:4-123.60 through C.30:4-123.63) and may have his parole revoked and be returned to custody. If revocation and return to custody are deemed appropriate, the appropriate board panel shall revoke the parolee's release and return the parolee to custody and confinement pursuant to the provisions of section 3 of P.L.1997, c.117 (C.30:4-123.51b).

c. Denials of administrative parole release shall be appealable in accordance with section 14 of P.L.1979, c.441 (C.30:4-123.58).

d. A criminal justice program at a four-year public institution of higher education in this State shall conduct a study of all inmates whose primary parole eligibility date was within the five years immediately preceding the implementation of P.L. c. (C.) (pending before the Legislature as this bill) and the five years immediately following the implementation of P.L. c. (C.) (pending before the Legislature as this bill). The study shall include, but not be limited to, the number of inmates who met the criteria set forth in subsection a. of this section, the number of inmates who did not meet the criteria, and the reasons an inmate did not meet the criteria.

5. (New section) Notwithstanding the provisions of subsection a. of section 7 of P.L.1979, c.441 (C.30:4-123.51), any person granted parole, except a person serving a parole term set forth in subsection c. of section 2 of P.L.1997, c.117 (C.2C:43-7.2) or section 2 of P.L.1994, c.130 (C.2C:43-6.4), shall have the parole term reduced by parole compliance credits at a rate of five days per month for each month the person is in compliance with the conditions of parole, and has not committed a serious or persistent infraction not overturned by appeal or administrative review. Any person granted parole who is not in compliance with the conditions of parole and receives a sanction requiring satisfaction of a condition of parole shall not receive parole compliance credits until the parole condition is successfully completed. Upon completing the condition, parole compliance credits shall be awarded for the time period between imposition of a sanction and completion of the condition.

6. (New section) The Commissioner of Corrections shall establish and maintain a centralized database of information contained on each disciplinary report prepared by a corrections officer in response to an inmate committing any prohibited act required to be reported to the prosecutor pursuant to regulations promulgated by the commissioner that resulted in a conviction during the current period of incarceration.

7. Section 1 of P.L.1979, c.441 (C.30:4-123.45) is amended to read as follows:

1. a. This act shall be known and may be cited as the "Parole Act of 1979."

b. In this act, unless a different meaning is plainly required:

(1) "Adult inmate" means any person sentenced as an adult to a term of incarceration.

(2) "Juvenile inmate" means any person under commitment as a juvenile delinquent pursuant to section 25 of P.L.1982, c.77 (C.2A:4A-44).

(3) "Parole release date" means that date certified by a member of the board for release of an inmate after a review of the inmate's case pursuant to section 11, 13 or 14 of this act.

(4) "Primary parole eligibility date" means that date established for parole eligibility for adult inmates pursuant to section 7 or 20 of this act.

(5) "Public notice" shall consist of lists including names of all inmates being considered for parole, the county from which **[**he was**]** the inmates were committed and the **[**crime**]** crimes for which **[**he was**]** the inmates were incarcerated. At least 30 days prior to parole consideration such lists shall be forwarded to the office of the public defender of each county or the private attorney of record for the inmates, the prosecutor's office of each county, the sentencing court, the office of the Attorney General, any other criminal justice agencies whose information and comment may be relevant, and news organizations.

(6) Removal for "cause" means such substantial cause as is plainly sufficient under the law and sound public policy touching upon qualifications appropriate to a member of the parole board or the administration of said board such that the public interest precludes the member's continuance in office. Such cause includes, but is not limited to, misconduct in office, incapacity, inefficiency **[**and**]**, nonfeasance , and violations of the Parole Board’s Code of Ethics .

(7) "Commission" means the Juvenile Justice Commission established pursuant to section 2 of P.L.1995, c.284 (C.52:17B-170).

(8) "Parole officer" means, with respect to an adult inmate, an officer assigned by the Chairman of the State Parole Board or his

designee and, with respect to a juvenile inmate, a person assigned by the commission.
(cf: P.L.2001, c.79, s.2)

8. Section 9 of P.L.1979, c.441 (C.30:4-123.53) is amended to read as follows:

9. a. An adult inmate who is not eligible for administrative parole release pursuant to section 4 of P.L. c. (C.) (pending before the Legislature as this bill) shall be released on parole at the time of primary parole eligibility, unless information supplied in the report filed pursuant to section 10 of P.L.1979, c.441 (C.30:4-123.54) or developed or produced at a hearing held pursuant to section 11 of P.L.1979, c.441 (C.30:4-123.55) indicates by a preponderance of the evidence that the inmate has failed to cooperate in his or her own rehabilitation or that there is a reasonable expectation that the inmate will violate conditions of parole imposed pursuant to section 15 of P.L.1979, c.441 (C.30:4-123.59) if released on parole at that time. **[**In reaching such determination, the**]** The board panel or board shall state the following on the record :

(1) the reasons **[**therefor.

For the purposes of this subsection, "failed to cooperate in his or her own rehabilitation" shall include, in the case of an inmate who suffers from mental illness as defined in section 2 of P.L.1987, c.116 (C.30:4-27.2) that does not require institutionalization, that the inmate failed to fully participate in or cooperate with all prescribed treatment offered during incarceration**]** for a denial of parole, specifically providing evidence to support the denial of parole based on factors that may be deemed subjective; and

(2) the reasons for the established future parole eligibility date, specifically providing an explanation of why and how the board panel or board determined the amount of time an inmate must wait for a subsequent parole hearing.

b. A juvenile inmate shall be released on parole when it shall appear that the juvenile, if released, will not cause injury to persons or substantial injury to property.
(cf: P.L.1998, c.112, s.1)

9. Section 10 of P.L.1979, c.441 (C.30:4-123.54) is amended to read as follows:

10. a. At least 120 days but not more than 180 days prior to the parole eligibility date of each adult inmate, a report concerning the inmate shall be filed with the appropriate board panel, by the staff members designated by the superintendent or other chief executive officer of the institution in which the inmate is held.

b. (1) The report filed pursuant to subsection a. shall contain preincarceration records of the inmate, including any history of civil commitment, any disposition which arose out of any charges

suspended pursuant to N.J.S.2C:4-6 including records of the disposition of those charges and any acquittals by reason of insanity pursuant to N.J.S.2C:4-1, state the conduct of the inmate during the current period of confinement, include a complete report on the inmate's social and physical condition, include an investigation by the Division of Parole of the inmate's parole plans, and present information bearing upon the likelihood that the inmate will commit a crime under the laws of this State if released on parole. The report shall also include a complete psychological evaluation of the inmate in any case in which the inmate was convicted of a first or second degree crime involving violence and:

(a) the inmate has a prior acquittal by reason of insanity pursuant to N.J.S.2C:4-1 or had charges suspended pursuant to N.J.S.2C:4-6; or

(b) the inmate has a prior conviction for murder pursuant to N.J.S.2C:11-3, aggravated sexual assault or sexual assault pursuant to N.J.S.2C:14-2, kidnapping pursuant to N.J.S.2C:13-1, endangering the welfare of a child which would constitute a crime of the second degree pursuant to N.J.S.2C:24-4, or stalking which would constitute a crime of the third degree pursuant to P.L.1992, c.209 (C.2C:12-10); or

(c) the inmate has a prior diagnosis of psychosis.

The inmate shall disclose any information concerning any history of civil commitment.

The preincarceration records of the inmate contained in the report shall include any psychological reports prepared in connection with any court proceedings.

(2) At the time of sentencing, the prosecutor shall notify any victim injured as a result of a crime of the first or second degree or the nearest relative of a murder victim of the opportunity to present a written or videotaped statement for the parole report to be considered at the parole hearing or to testify to the parole board concerning his harm at the time of the parole hearing. Each victim or relative shall be responsible for notifying the board of his intention to submit such a statement and to provide an appropriate mailing address.

The report may include a written or videotaped statement concerning the continuing nature and extent of any physical harm or psychological or emotional harm or trauma suffered by the victim, the extent of any loss of earnings or ability to work suffered by the victim and the continuing effect of the crime upon the victim's family. At the time public notice is given that an inmate is being considered for parole pursuant to this section, the board shall also notify any victim or nearest relative who has previously contacted the board of the availability to provide a written or videotaped statement for inclusion in the parole report or to present testimony at the parole hearing.

The board shall notify such person at his last known mailing address.

(3) If the inmate meets the requirements for administrative parole release pursuant to section 4 of P.L. c. (C.) (pending before the Legislature as this bill) the report shall indicate such eligibility.

c. A copy of the report filed pursuant to subsection a. of this section, excepting those documents which have been classified as confidential pursuant to rules and regulations of the board or the Department of Corrections, shall be served on the inmate at the time it is filed with the board panel. The inmate may file with the board panel a written statement regarding the report, but shall do so within 105 days prior to the primary parole eligibility date.

d. Upon receipt of the public notice pursuant to section 1 of P.L.1979, c.441 (C.30:4-123.45), a county prosecutor , a public defender, or a private attorney of record may request from the parole board a copy of the report on any adult inmate prepared pursuant to subsection a. of this section, which shall be expeditiously forwarded to the county prosecutor by the parole board by mail, courier, or other means of delivery. Upon receipt of the report, the prosecutor has 10 working days to review the report and notify the parole board of the prosecutor's comments, if any, or notify the parole board of the prosecutor's intent to provide comments. If the county prosecutor does not provide comments or notify the parole board of the prosecutor's intent to provide comments within the 10 working days, the parole board may presume that the prosecutor does not wish to provide comments and may proceed with the parole consideration. Any comments provided by a county prosecutor shall be delivered to the parole board by the same method by which the county prosecutor received the report. The confidentiality of the contents in a report which are classified as confidential shall be maintained and shall not be disclosed to any person who is not authorized to receive or review a copy of the report containing the confidential information.

e. Any provision of this section to the contrary notwithstanding, the board shall by rule or regulation modify the scope of the required reports and time periods for rendering such reports with reference to county penal institutions.

f. Notwithstanding any provision of this section, the board may modify the time periods for submitting the reports required pursuant to this section in processing an inmate whose parole eligibility date is accelerated pursuant to section 11 of P.L.1979, c.441 (C.30:4-123.55).

(cf: P.L.2001, c.141, s.3)

10. Section 11 of P.L.1979, c.441 (C.30:4-123.55) is amended to read as follows:

11. a. Prior to the parole eligibility date of each adult inmate, a designated hearing officer shall review the reports required by section 10 of P.L.1979, c.441 (C.30:4-123.54), and shall determine whether:

(1) the inmate is eligible for administrative parole release pursuant to section 4 of P.L. c. (C.) (pending before the Legislature as this bill). If an inmate is eligible for administrative parole release, the hearing officer shall at least 60 days prior to the inmate's parole eligibility date recommend in writing to the assigned member of the board panel that administrative parole release be granted pursuant to section 4 of P.L. c. (C.) (pending before the Legislature as this bill); or

(2) there is a basis for denial of parole in the preparole report, any risk assessment prepared in accordance with the provisions of subsection e. of section 8 of P.L.1979, c.441 (C.30:4-123.52), or the inmate's statement, or an indication, reduced to writing, that additional information providing a basis for denial of parole would be developed or produced at a hearing. If the hearing officer determines that there is no basis in the preparole report, the risk assessment, or the inmate's statement for denial of parole and that there is no additional relevant information to be developed or produced at a hearing, he shall at least 60 days prior to the inmate's parole eligibility date recommend in writing to the assigned member of the board panel that parole release be granted.

b. If the assigned member of the board panel or in the case of an inmate sentenced to a county penal institution, the assigned member concurs in the hearing officer's recommendation, he shall certify parole release pursuant to section 15 of P.L.1979, c.441 (C.30:4-123.59) as soon as practicable after the eligibility date and so notify the inmate and the board. In the case of an inmate recommended for administrative parole release by the hearing officer pursuant to section 4 P.L. , c. (pending before the Legislature as this bill), the assigned member shall review the reports required by section 10 of P.L.1979, c.441 (C.30:4-123.54) to confirm eligibility and if the inmate is eligible, shall certify parole release pursuant to section 15 of P.L.1979, c.441 (C.30:4-123.59) as soon as practicable after the eligibility date and notify the inmate and the board. In the case of an inmate sentenced to a county penal institution the board shall certify parole release or deny parole as provided by this section, except with regard to time periods for notice and parole processing which are authorized by or otherwise adopted pursuant to subsection g. of section 7 of P.L.1979, c.441 (C.30:4-123.51). If the designated hearing officer does not recommend release on parole or if the assigned member does not concur in a recommendation of the designated hearing officer in favor of release, then the parole release of an inmate in a county penal institution shall be treated under the provisions of law otherwise applicable to an adult inmate. In the case of an inmate

sentenced to a county penal institution, the performance of public service for the remainder of the term of the sentence shall be a required condition of parole, where appropriate.

c. If the hearing officer or the assigned member determines that there is a basis for denial of parole, or that a hearing is otherwise necessary, the hearing officer or assigned member shall notify the appropriate board panel and the inmate in writing of his determination, and of a date for a parole consideration hearing. The board panel shall notify the victim of the crime, if the crime for which the inmate is incarcerated was a crime of the first or second degree, or the victim's nearest relative if the crime was murder, as appropriate, who was previously contacted by the board and who has indicated his intention to the board to testify at the hearing, of the opportunity to testify or submit written or videotaped statements at the hearing. Said hearing shall be conducted by the appropriate board panel at least 30 days prior to the eligibility date. At the hearing, which shall be informal, the board panel shall receive as evidence any relevant and reliable documents or videotaped or in person testimony, including that of the victim of the crime or the members of the family of a murder victim if the victim or a family member so desires. If a victim of a crime or the relative of a murder victim chooses not to testify personally at the hearing, the victim or relative may elect to present testimony to a senior hearing officer designated by the board panel. The senior hearing officer shall notify the victim of the right to have this testimony videotaped. The senior hearing officer shall prepare a report, transcript or videotape, if applicable, of the testimony for presentation to the board panel at the hearing. All such evidence not classified as confidential pursuant to rules and regulations of the board or the Department of Corrections shall be disclosed to the inmate and the inmate shall be permitted to rebut such evidence and to present evidence on his own behalf. The decision of the board panel shall be based solely on the evidence presented at the hearing.

d. At the conclusion of the parole consideration hearing, the board panel shall either (1) certify the parole release of the inmate pursuant to section 15 of this act. as soon as practicable after the eligibility date and so notify the inmate and the board, or (2) deny parole and file with the board within 30 days of the hearing a statement setting forth the decision, the particular reasons therefor, except information classified as confidential pursuant to rules and regulations of the board or the Department of Corrections, a copy of which statement shall be served upon the inmate together with notice of his right to appeal to the board.

e. Upon request by the hearing officer or the inmate, the time limitations contained in section 10 of P.L.1979, c.441 (C.30:4-123.54) and this section may be waived by the appropriate board panel for good cause.

f. Notwithstanding the provision of any other law to the contrary, if an inmate incarcerated for murder is recommended for parole by the assigned board member or the appropriate board panel, parole shall not be certified until a majority of the full parole board, after conducting a hearing, concurs in that recommendation. The board shall notify the victim's family of that hearing and family members shall be afforded the opportunity to testify in person or to submit written or videotaped statements. The provisions of this subsection shall not apply to an inmate who has his parole revoked and is returned to custody pursuant to the provisions of section 19 of P.L.1979, c.441 (C.30:4-123.63).

g. Notwithstanding the provision of any other law or regulation to the contrary, the board may promulgate rules and regulations for the processing of any inmate whose parole eligibility date is accelerated. For purposes of this section, a parole eligibility date is accelerated when an inmate becomes eligible for parole at the time of or within 120 days of an event or circumstance beyond the control of the parole board, such as sentencing, resentencing or other amendment, including the awarding of additional credit to the original sentence, restoration of authorized institutional time credits or the application of authorized institutional time credits on a future eligibility date established pursuant to subsection a. of section 12 of P.L.1979, c.441 (C.30:4-123.56) or subsection a. of section 20 of P.L.1979, c.441 (C.30:4-123.64). The rules and regulations shall provide for the preparation and review of a preparole report and shall require that a parole consideration hearing be held not more than 120 days after the board has received notice that an accelerated parole eligibility date has been established.

(cf: P.L.2001, c.141, s.4)

11. R.S.30:4-140 is amended to read as follows:

30:4-140. For every year or fractional part of a year of a custodial sentence imposed upon any person **[**committed to any State correctional institution for a minimum-maximum term**]** there shall be remitted to him from both the maximum and minimum term of his sentence, for continuous orderly deportment, the progressive time credits indicated in the schedule herein. When a sentence contains a fractional part of a year in either the minimum or maximum thereof, then time credits in reduction of such fractional part of a year shall be calculated at the rate set out in the schedule for each full month of such fractional part of a year of sentence. **[**No time credits shall be calculated as provided for herein on time served by any person in custody between his arrest and the imposition of sentence.**]** In case of any flagrant misconduct the board of managers may declare a forfeiture of the time previously remitted, either in whole or in part, as to them shall seem just.

Schedule

A	B	C
Minimum and Maximum Sentences in Years	Progressive Credits for Minimum and Maximum Sentences in Years (days)	Credits for Each Full Month of Fractional Part of a Year in Excess of Column A (days)
1	72	7
2	156	8
3	252	8
4	348	8
5	444	8
6	540	8
7	636	10
8	756	10
9	876	10
10	996	10
11	1,116	10
12	1,236	11
13	1,368	11
14	1,500	11
15	1,632	11
16	1,764	11
17	1,896	12
18	2,040	12
19	2,184	12
20	2,328	12
21	2,472	12
22	2,616	13
23	2,772	13
24	2,928	13
25	3,084	15
26	3,264	15
27	3,444	15
28	3,624	15
29	3,804	15
30	3,984	16

Any sentence in excess of 30 years shall be reduced by time credits for continuous orderly deportment at the rate of 192 days for each such additional year or 16 days for each full month of any fractional part of a year. Nothing herein contained shall be deemed to limit or affect a convict's eligibility for parole consideration as provided for in section 10, chapter 84, P.L.1948, as amended, in any situation where the sentence or consecutive sentences imposed upon a convict shall exceed 25 years.

(cf: P.L.1957, c.27, s.1)

12. (New section) The Commissioner of Corrections shall allocate a portion of any cost savings realized from the enactment of P.L. , c. (pending before the Legislature as this bill) to the Office of Victim Services for the operating costs of the Focus on the Victim Program and other services to facilitate inmates' successful reentry.

13. (New section) a. The Commissioner of Corrections, in consultation with the Chairman of the State Parole Board, shall conduct a study to determine the fiscal impact of establishing, pursuant to the provisions of section 3 of P.L. c. (C.) (pending before the Legislature as this bill), a Division of Reentry and Rehabilitative Services, and the responsibilities associated with establishing the division. In conducting the study, the commissioner shall analyze the costs to the State resulting from initial implementation and annual operating expenditures resulting from the establishment of a division, and estimate any cost savings that may be realized from the enactment of P.L. c. (C.) (pending before the Legislature as this bill).

b. The commissioner shall issue a report to the Governor and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature no later than one year following the date of enactment that shall include at a minimum:

(1) a determination whether the provisions of section 3 of P.L. c. (C.) (pending before the Legislature as this bill) will result in additional net costs to the department on a recurring fiscal year basis or if the provisions are cost-neutral within the department; and

(2) if it is determined that implementation of section 3 of P.L. c. (C.) (pending before the Legislature as this bill) will result in additional net costs to the department, the report shall include an itemized list of the type and amount of the additional net costs.

14. This act shall take effect on the first day of the third month following enactment, provided however, that section 3 of this act shall take effect either on the earlier of:

a. the first day of the third month following one year after the date of enactment if the report issued pursuant to section 13 by the commissioner concludes that section 3 will result in no additional net costs to the department on a recurring fiscal year basis or is cost-neutral within the department; or

b. if the report concludes otherwise, upon the effective date of an enactment by law of an appropriation of funds for the express purpose of the implementation of section 3.

STATEMENT

This bill titled, "Earn Your Way Out Act," would enact various corrections and parole reforms, including: requiring the Department of Corrections (DOC) to develop a reentry plan for each inmate; establishing administrative parole release for certain inmates; providing for parole compliance credits; creating an inmate disciplinary database; and mandating an impact study of the committee substitute's reforms by an institution of higher education's criminal justice program. In addition, the bill requires the DOC to conduct a study and issue a report concerning the fiscal impact of the committee substitute.

Under the bill the Commissioner of Corrections would be required to establish a Division of Reentry and Rehabilitative Services to coordinate reentry preparation and other rehabilitative services within all State correctional facilities, and to act as a liaison to the State Parole Board. Staff within the division is responsible for developing and implementing an individualized, comprehensive reentry plan designed to prepare each inmate for successful integration as a productive, law-abiding citizen upon release.

Under the bill, administrative parole release means the release of an adult inmate who has met the criteria set forth in the bill at the time of primary or subsequent parole eligibility, and occurs after a hearing officer reviews the preparole report of an inmate and the inmate is certified for release. Administrative parole release does not require a parole consideration hearing.

Under current law, an adult inmate is released on parole at the time of parole eligibility, unless the inmate has failed to cooperate in his or her own rehabilitation or there is a reasonable expectation that the inmate will violate conditions of parole.

The bill provides that an adult inmate will be administratively released on parole at the time of primary or subsequent parole eligibility if:

1) the inmate has not been convicted of a violent crime under the No Early Release Act, a sex offense under Megan's Law, or a sexually violent offense;

2) the inmate has not committed any prohibited acts required to be reported to the county prosecutor pursuant to regulations promulgated by the Commissioner of Corrections that resulted in a conviction during the current term of incarceration, or any serious disciplinary infraction, as designated in regulations to be a prohibited act that is considered the most serious and results in the most severe sanctions, within the previous two years;

3) the inmate has completed relevant rehabilitation programs during incarceration, or made application to participate in these programs but was unable to complete such programs or denied access because of circumstances beyond the inmate's control; and

4) crime victims have received notification as required by current law.

Any denial of administrative parole release is to be appealable in accordance with the parole appeal procedures under current law.

A parolee released on administrative parole release is to remain in the legal custody of the Commissioner of Corrections, be supervised by the Division of Parole of the State Parole Board, and be subject to the provisions and conditions established by the appropriate board panel. If the parolee violated a condition of parole, the parole may be revoked and the parolee returned to custody.

For any inmate who is denied parole, the bill requires the Parole Board to state on the record the reasons for the denial, specifically providing evidence to support the denial based on factors that may be deemed to be subjective, as well as the reasons for the established future parole eligibility date.

The bill enables all parolees, other than those who are ineligible for parole reductions, to earn compliance credits. Under the bill, a parolee's term is reduced by five days for each month the parolee remains in compliance with the conditions of parole and does not commit a serious or persistent infraction (not overturned by appeal or administrative review).

Additionally, with respect to periods of incarceration, the bill provides that inmates may be awarded commutation credits following arrest for time served in a county jail. Currently, commutation credits are not available to inmates who serve time in a county jail prior to serving time in a State correctional institution.

The bill directs the Commissioner of Corrections to establish and maintain a centralized database of information contained in each disciplinary report prepared by a corrections officer in response to an inmate committing a prohibited act, required to be reported to the county prosecutor pursuant to regulations promulgated by the commissioner, that resulted in a conviction.

The Commissioner of Corrections also is required to allocate a portion of any cost savings realized from the bill's enactment to the Office of Victim Services for the operating costs of the Focus on the Victim Program and other services to facilitate successful reentry.

The bill requires a study to be conducted by a criminal justice program at a four-year public institution of higher education in this State to determine the impact that administrative parole release, as established in the bill, has on the inmate population. The study would specifically focus on those inmates whose primary parole eligibility date was within the five years immediately preceding and the five years immediately following the bill's date of enactment.

In addition, the bill requires the Commissioner of Corrections, in consultation with the Chairman of the State Parole Board, to conduct a study to determine the fiscal impact of establishing a Division of Reentry and Rehabilitative Services. In conducting the study, the commissioner is required to analyze the costs to the State resulting from initial implementation and annual operating expenditures resulting from the establishment of a division, and estimate any cost savings that may be realized from enactment of the bill.

The bill requires the commissioner to issue a report to the Governor and the Legislature no later than one year following the date of enactment. The report is required to include, at a minimum: 1) a determination that the provisions of section 3 of the bill establishing a Division of Reentry and Rehabilitative Services, and the responsibilities associated with establishing the division, will result in additional net costs to the department on a recurring fiscal year basis or whether the provisions are cost-neutral within the department; and 2) if it is determined that implementation of section 3 of the bill will result in additional net costs to the department, the report shall include an itemized list of the type and amount of the additional net costs.

This bill is to take effect on the first day of the third month following enactment. However, section 3 is to take effect either: on the first day of the sixteenth month following enactment if the report issued pursuant to section 13 concludes that section 3 will result in no additional net costs to the department on a recurring fiscal year basis or is cost-neutral or, if the report concludes otherwise, upon the effective date of an enactment by law of an appropriation of funds for the express purpose of implementing section 3.