

ASSEMBLY, No. 3499

STATE OF NEW JERSEY 215th LEGISLATURE

INTRODUCED DECEMBER 3, 2012

Sponsored by:
Assemblyman ALBERT COUTINHO
District 29 (Essex)

SYNOPSIS

Concerns community-based correctional services for certain State and county inmates.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 12/4/2012)

1 AN ACT concerning inmate services and amending various parts of
2 the statutory law.

3
4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6
7 1. Section 2 of P.L.1969, c.22 (C.30:4-91.2) is amended to read
8 as follows:

9 2. The commissioner or his duly authorized agent, may
10 designate as a place of confinement any available, suitable, and
11 appropriate institution or facility whether owned by the State or
12 otherwise, and may at any time transfer a person from one place of
13 confinement to another.

14 The word "facility" shall include a private nonprofit or for-profit
15 community-based residential treatment centers which [provided]
16 provides for the care, custody, subsistence, education, training and
17 welfare of inmates.

18 Any such private nonprofit or for-profit community-based
19 residential treatment center must be certified annually by the
20 commissioner as a secure and appropriately supervised place of
21 confinement.

22 (cf: P.L.1976, c.35, s.2)

23
24 2. Section 1 of P.L.1999, c.243 (C.30:4-91.9) is amended to
25 read as follows:

26 1. As used in this act:

27 "Eligible inmate" means an inmate who (1) was not convicted of
28 a sexual offense as defined in this section or an arson offense, (2)
29 does not demonstrate an undue risk to public safety and (3) has less
30 than one year remaining to be served before the inmate's parole
31 eligibility date, provided, however, that an eligible inmate may
32 include an inmate who is otherwise eligible but who has more than
33 one year but less than 18 months remaining to be served before the
34 inmate's parole eligibility date and is determined by the
35 Commissioner of Corrections or a designee to be appropriate to be
36 authorized for confinement in a private facility; and further
37 provided, however, that an eligible inmate may include an inmate
38 who is otherwise eligible but who has more than one year but less
39 than two years remaining to be served before the inmate's parole
40 eligibility date and is determined by the Commissioner of
41 Corrections or a designee to be appropriate to be authorized for
42 confinement in a private facility for participation in a substance
43 abuse treatment program.

44 "Nationally recognized accrediting organization" shall mean a
45 legal entity, or that part of a legal entity, that conducts accrediting

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 activities through voluntary peer review and makes decisions
2 concerning the accreditation status of institutions or programs, or
3 both.

4 “Performance-based contracting” shall mean the structuring of
5 all aspects of the procurement of services around the purpose of the
6 work to be performed and the desired results, with the contract
7 requirements set forth in clear, specific, and objective terms with
8 measurable outcomes.

9 "Private facility" means a residential center, operated by a
10 private nonprofit or for-profit entity, contracted by the Department
11 of Corrections to provide for the care, custody, subsistence,
12 treatment, education, training or welfare of inmates sentenced to the
13 custody of the Commissioner of Corrections.

14 "Sexual offense" means a violation of ~~【2C:14-2】~~ N.J.S.2C:14-2,
15 ~~【2C:14-3】~~ N.J.S.2C:14-3 or ~~【2C:24-4】~~ N.J.S.2C:24-4, or of any
16 other substantially equivalent provision contained in Title 2A of the
17 New Jersey Statutes now repealed, conspiracy to commit any of
18 these offenses or an attempt to commit any of these offenses.

19 (cf: P.L.1999, c.243, s.1)

20

21 3. Section 2 of P.L.1999, c.243 (C.30:4-91.10) is amended to
22 read as follows:

23 2. On and after the effective date of P.L.1999, c.243 (C.30:4-
24 91.9 et seq.), the Commissioner of Corrections may authorize the
25 confinement of eligible inmates in private facilities.

26 The Department of Corrections and the State Parole Board shall
27 use competitive, performance-based contracting to select which
28 vendors will house eligible inmates in private facilities. A
29 performance-based contract shall be awarded based on factors to be
30 determined by the department and the board.

31 The department and board shall only contract for services with
32 private facilities that meet the accreditation standards of a
33 nationally recognized accrediting organization. An accrediting
34 organization, which may include, but shall not be limited to, the
35 American Correctional Association (ACA) or the Commission on
36 Accreditation of Rehabilitation Facilities (CARF), shall be
37 designated by the department or board.

38 (cf: P.L.1999, c.243, s.2)

39

40 4. Section 1 of P.L.1981, c.265 (C.30:8-48.1) is amended to
41 read as follows:

42 1. a. The governing body of any county which has adopted the
43 provisions of the act to which this act is a supplement may, by
44 ordinance or resolution, as appropriate, establish a program for the
45 housing in an institution or facility operated by a nonprofit
46 organization or for-profit providing for the care, custody,
47 subsistence, education, training, and welfare of inmates[, of any

1 person at outside labor or permitted to attend a vocational training
2 course].

3 b. Upon the adoption of the ordinance or resolution any eligible
4 inmate may be transferred to such nonprofit or for-profit institution
5 or facility by order of the judge at an arraignment hearing, or by the
6 sentencing judge at the time of sentencing, or by the sentencing
7 judge or the assignment judge of the county at any time during the
8 term of the sentence. The court or the assignment judge ordering the
9 transfer of an inmate shall do so on the basis of whether or not the
10 transfer of the inmate to the facility or institution is appropriate to
11 the needs and welfare of the inmate and other inmates, and to the
12 security of the county jail, workhouse or penitentiary. The
13 sentencing judge or the assignment judge shall designate the
14 institution or facility to which the person is to be transferred and
15 may, at any time, require that an inmate residing in the facility or
16 institution be sent to the county jail, workhouse or penitentiary to
17 serve the remainder of the sentence.

18 c. An inmate assigned to county jail by a sentencing judge,
19 assignment judge, or judge at an arraignment hearing may be
20 transferred to a non-profit or for-profit facility by direction of the
21 county director of public safety or by the warden of the county jail.
22 The transfer shall be made after an inmate is processed, granted
23 medical clearance, and the inmate's custody security status has been
24 assessed by the county. For the purposes of this subsection,
25 "inmate" shall mean a person sentenced to imprisonment, or
26 ordered to pretrial or investigative detention, in a country jail.

27 (cf: P.L.1981, c.265, s.1)

28

29 5. Section 2 of P.L.1981, c.265 (C.30:8-48.2) is amended to
30 read as follows:

31 2. The governing body of a county which has adopted an
32 ordinance or resolution pursuant to this act shall enter into contracts
33 for the housing of inmates with any organization operating a facility
34 or institution designated by the judge at an arraignment hearing,
35 sentencing judge [or], assignment judge, county director of public
36 safety, or warden of the county jail.

37 It shall be the responsibility of the county governing body or its
38 designated representative to insure that each facility or institution is
39 a secure and appropriately supervised place of confinement and that
40 all units are inspected annually. The county governing body may
41 promulgate standards to insure that facilities and institutions where
42 inmates are residing are appropriate for the housing of such
43 persons.

44 The county shall only contract for services with private facilities
45 that meet the accreditation standards of a nationally recognized
46 accrediting organization. An accrediting organization, which may
47 include, but shall not be limited to, the American Correctional

1 Association (ACA) or the Commission on Accreditation of
2 Rehabilitation Facilities (CARF), shall be designated by the county.

3 The county shall use competitive, performance-based contracting
4 to select which vendors will house eligible inmates in private
5 facilities. A performance-base contract shall be awarded based on
6 factors to be determined by the county.

7 For the purposes of this section:

8 “Inmate” shall mean a person sentenced to imprisonment, or
9 ordered to pretrial or investigative detention in a country jail.

10 “Nationally recognized accrediting organization” shall mean a
11 legal entity, or that part of a legal entity, that conducts accrediting
12 activities through voluntary peer review and makes decisions
13 concerning the accreditation status of institutions or programs, or
14 both.

15 “Performance-based contracting” shall mean the structuring of
16 all aspects of the procurement of services around the purpose of the
17 work to be performed and the desired results, with the contract
18 requirements set forth in clear, specific, and objective terms with
19 measurable outcomes.

20 (cf: P.L.1981, c. 265, s.2)

21

22 6. This act shall take effect on the first day of the fourth month
23 after enactment.

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25

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STATEMENT

27

28 Current law authorizes the Commissioner of Corrections to
29 designate as a place of confinement any available, suitable, and
30 appropriate institution or facility, whether owned by the State or
31 otherwise, and to transfer a person from one place of confinement
32 to another. In order to increase the number of entities eligible to
33 house and treat inmates and thereby provide cost savings to the
34 Department of Corrections, this bill amends the definition of
35 “facility” by removing the restriction that only private “non-profit”
36 community-based residential treatment centers are eligible to
37 provide for the care, custody, subsistence, education, training, and
38 welfare of inmates.

39 The bill also amends the definition of “facility” for the purposes
40 of referring county detainees to community-based facilities by
41 allowing judges to refer county inmates to “for-profit,” as well as
42 “non-profit,” community-based residential treatment centers.

43 Furthermore, the bill authorizes judges at arraignment hearings,
44 county directors of public safety, and county jail wardens to refer
45 county inmates to a nonprofit or for-profit facility. Current law
46 only authorizes sentencing and assignment judges to make these
47 referrals. Under the bill, an “inmate” is defined as a person

1 sentenced to imprisonment, or ordered to pretrial or investigative
2 detention in a county jail.

3 The addition of for-profit entities to the organizations eligible to
4 provide community-based residential treatment services will
5 increase the number of eligible bidders to provide such services.
6 Consequently, this will ensure qualified, cost-effective services to
7 State and county governments, as well as savings to taxpayers. The
8 addition of for-profit entities will also ensure greater transparency
9 by subjecting all State and county correctional treatment providers
10 to appropriate financial and corporate disclosure provisions.

11 The bill also requires the Department of Corrections and the
12 counties to utilize performance-based contracting in its contracts
13 with vendors of services at private facilities. The bill defines
14 “performance-based contracting” as the structuring of all aspects of
15 the procurement of services around the purpose of the work to be
16 performed and the desired results, with the contract requirements
17 set forth in clear, specific, and objective terms with measurable
18 outcomes.

19 Finally, the bill requires private facilities contracting with the
20 Department of Corrections or the counties to be accredited by a
21 nationally recognized accrediting organization, such as the
22 American Correctional Association (ACA) or the Commission on
23 Accreditation of Rehabilitation Facilities (CARF).