



# NEW JERSEY

## SENATE DEMOCRATS

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### **Fact Sheet**

Below is a background document with further details on the six criminal justice reform bills introduced to the Senate this week.

#### **S.2586 - Implements sentencing recommendations of the Criminal Sentencing and Disposition Commission**

- Eliminates mandatory minimums for nonviolent drug offenses:
  - Leader of narcotics trafficking network
  - Maintaining/operating a controlled dangerous substance production facility
  - Manufacturing/distributing or dispensing a controlled dangerous substance
  - Employing a juvenile in a drug distribution scheme
  - Distributing, dispensing, or possessing a controlled dangerous substance within 1,000 ft. of a school
  - Distribution of a controlled dangerous substance to persons under 18
- Eliminates mandatory minimums for non-violent property crimes:
  - Recidivist leader of a cargo theft network
  - Recidivist theft from a cargo carrier
  - Shoplifting (third offense)
  - First-degree computer hacking
  - Hacking of a government computer
  - Improper computer access and disclosure
- Reduce mandatory minimum sentencing for the following No Early Release Act (NERA) crimes from 85% to 50% of the sentence imposed:
  - Robbery, second degree
  - Burglary, second degree

- Amends criteria for withholding/imposing sentence of imprisonment to create a new mitigating factor that allows judges to consider a defendant's youthfulness at the time of the offense.

**S.2593 - Permits the Administrative Office of the Courts (AOC) to retroactively rescind or modify mandatory term of parole eligibility for certain offenses**

- Authorizes the Director of the AOC to issue an order to retroactively rescind the mandatory minimum period of parole ineligibility of inmates who committed any offenses listed in the first two categories above.

**S.2594 - Establishes a compassionate release program for certain inmates; repeals law that establishes medical parole**

- Establishes compassionate release for certain inmates and repeals current medical parole law.
- The court may release an inmate who qualifies for compassionate release at any time if the inmate is found to be suffering from:
  - a grave medical condition
  - a terminal condition, disease, or syndrome
  - a permanent physical incapacity
- The bill would require the Department of Corrections (DOC) to establish a process for an inmate to obtain a diagnosis from two licensed physicians to determine whether he/she is eligible for compassionate release.
- If an inmate is granted compassionate release, the court would be required to ensure that the parole board has created a release plan that includes:
  - identification of a community sponsor
  - verification of the availability of appropriate medical services
  - verification of appropriate housing.
- DOC would be required to ensure that the inmate is provided assistance in completing an application for Medicaid.

**S.2595 - Requires cost savings study of compassionate release program and elimination of mandatory minimum terms; establishes "Corrections Rehabilitation and Crime Prevention Fund."**

- Requires the DOC, in consultation with parole, and the Treasurer, to conduct a study regarding the cost savings that may be realized from the reduction of the prison population due to compassionate release and the elimination of mandatory minimums for certain inmates.

- The DOC Commissioner would issue an annual report to the Governor and the Legislature.
- The DOC Commissioner would deposit any cost savings into a special non-lapsing fund, known as the “Corrections Rehabilitation and Crime Prevention Fund”, which would be used to support recidivism reduction programs, including community and prison-based programs such as educational and vocational training and for other services to facilitate inmates’ successful reentry.

### **S.2592 - Establishes youthful age of defendant as a mitigating factor in sentencing**

- Provides the court with discretion to consider the age of a youthful defendant as a mitigating factor during sentencing (based on the recommendation by New Jersey Supreme Court in *State v. Zuber*, 2017).
- Current law provides 13 mitigating factors the court can consider when sentencing a defendant- the only one related to age permits the court to consider whether the defendant’s conduct was substantially influenced by another, more mature person. This bill would allow the court to consider as a mitigating factor whether a defendant was under the age of 26 when the offense was committed.

### **S.2591 - Provides for the resentencing of certain inmates**

- Requires DOC Commissioner to issue a Certificate of Eligibility for Resentencing to any inmate who:
  - committed a crime as a juvenile and was tried as an adult
  - received an aggregate sentence of incarceration of 30 years or more
  - has served at least 20 years of that sentence, and
  - has not been resentenced or previously sought relief under the bill.
- An inmate who receives a Certificate of Eligibility for Resentencing and received a sentence of incarceration with a period of parole ineligibility of 20 years or more can petition the court for resentencing. The court would have the discretion to modify, reduce, or suspend the sentence, including any minimum or mandatory sentence or a portion of the sentence.
- Upon receipt of notification by DOC that an inmate has been issued a Certificate of Eligibility, the sentencing court would be required to order a resentencing report which would assess the following factors:
  - defendant’s age at the time of the offense
  - the role of youthful characteristics in the offense, including impulsivity, risk-taking behavior, immaturity, and susceptibility to peer pressure;

- any obstacle the defendant may have faced as a child including: parental abuse or neglect or abuse by any other person, developmental disorders, substance abuse, addiction, trauma, poverty, and lack of education. The resentencing report would also include the victim's position as to resentencing.
- Upon the filing of a motion for resentencing, the bill requires the court to conduct a hearing. At the resentencing hearing, the court would be required to determine whether the offense was committed as a result of mitigating qualities of youth or whether the offense reflects irreparable corruption through consideration of the same factors used for the resentencing report and the following additional factors:
  - any effort the inmate has made prior to and while incarcerated to overcome any of the enumerated obstacles
  - the inmate's attempt at rehabilitation since incarceration, including but not limited to participation in available rehabilitative, educational, or other programs
  - whether the inmate poses the same risk to society that they did at the time of the initial sentence
  - any additional evidence of maturity, growth, self-improvement, and consideration of the welfare of others.
- If the court finds by a preponderance of the evidence that the offense for which the inmate was sentenced did not reflect irreparable corruption, but was the result of mitigating qualities of youth, the court would be required to resentence the inmate to a term that allows the inmate a meaningful opportunity for release.
- The bill would apply retroactively to any inmate who was sentenced as a juvenile prior to the bill's effective date.

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