

**ASSEMBLY CONCURRENT
RESOLUTION No. 147**

**STATE OF NEW JERSEY
213th LEGISLATURE**

INTRODUCED FEBRUARY 26, 2008

Sponsored by:
Assemblyman GORDON M. JOHNSON
District 37 (Bergen)

SYNOPSIS

Proposes constitutional amendment authorizing statute transferring probation functions from Judiciary to State Parole Board.

CURRENT VERSION OF TEXT

As introduced.



1 A **CONCURRENT RESOLUTION** proposing to amend Article V,
2 Section IV of the Constitution of New Jersey by adding a new
3 paragraph.

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5 **BE IT RESOLVED** by the General Assembly of the State of New
6 Jersey (the Senate concurring):

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8 1. The following proposed amendment to the Constitution of
9 the State of New Jersey is agreed to:

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11 **PROPOSED AMENDMENT**

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13 Amend Article V, Section IV by adding a new paragraph 7 to
14 read as follows:

15 7. The Legislature is authorized to establish by law a Bureau of
16 Probation in the State Parole Board and to authorize by law the
17 transfer of all the functions, powers, duties, and responsibilities
18 concerning probation, and the probation officers and other
19 professional supervisors, case workers, and case-related employees
20 who perform probation functions, from the Judiciary to the Bureau
21 of Probation. No term or condition of any existing contract shall be
22 altered or abrogated by this transfer and the transfer shall not affect
23 the status of existing exclusive employee bargaining
24 representatives. The units and contracts and the contract
25 representatives shall, therefore, be continued in the Bureau of
26 Probation.

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28 2. When this proposed amendment to the Constitution is finally
29 agreed to pursuant to Article IX, paragraph 1 of the Constitution, it
30 shall be submitted to the people at the next general election
31 occurring more than three months after the final agreement and
32 shall be published at least once in at least one newspaper of each
33 county designated by the President of the Senate, the Speaker of the
34 General Assembly and the Attorney General, not less than three
35 months prior to the general election.

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37 3. This proposed amendment to the Constitution shall be
38 submitted to the people at that election in the following manner and
39 form:

40 There shall be printed on each official ballot to be used at the
41 general election, the following:

42 a. In every municipality in which voting machines are not used,
43 a legend which shall immediately precede the question as follows:

44 If you favor the proposition printed below make a cross (X), plus
45 (+), or check (✓) in the square opposite the word "Yes." If you are
46 opposed thereto make a cross (X), plus (+) or check (✓) in the
47 square opposite the word "No."

48 b. In every municipality the following question:

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	<p>YES</p>	<p>AMENDS CONSTITUTION TO AUTHORIZE CREATION OF BUREAU OF PROBATION IN STATE PAROLE BOARD AND TRANSFER OF CERTAIN PROBATION FUNCTIONS AND PROBATION OFFICERS THERETO.</p> <p>Do you approve the proposed amendment to the New Jersey Constitution authorizing the Legislature to enact a law that would establish a Bureau of Probation in the State Parole Board and transfer all of the functions, powers, duties and responsibilities concerning probation, and the probation officers and other employees who perform probation-related functions, from the Judiciary to the Bureau of Probation?</p>
	<p>NO</p>	<p>INTERPRETIVE STATEMENT</p> <p>Adoption of this amendment would authorize the Legislature to pass a law to create the Bureau of Probation in the State Parole Board and transfer the functions, powers, duties and responsibilities concerning probation, and probation officers and other employees who perform probation-related functions, from the Judiciary to the Bureau of Probation. The terms and conditions of a existing contracts would not be altered or abrogated by this transfer and the transfer shall not affect the status of existing exclusive employee bargaining representatives.</p>

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STATEMENT

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6 This concurrent resolution proposes to amend the State
 7 Constitution to authorize the Legislature to enact a statute to
 8 establish a Bureau of Probation in the State Board of Parole and
 9 transfer all of the functions, powers, duties and responsibilities
 10 concerning probation, and the probation officers and other
 11 professional supervisors, case workers, and case-related employees
 12 who perform probation functions from the Judiciary to this new
 13 Bureau of Probation. Under the proposed constitutional
 14 amendment, existing contractual terms and conditions would remain
 15 unchanged, as would the status of exclusive employee bargaining
 16 representatives. The units and contracts, as well as the contract
 17 representatives, would be continued in the Bureau of Probation.

18 The Legislature passed P.L.2001, c.362 (C.2B:10A-1 et al.) to
 19 establish a "Probation Officer Community Safety Unit" consisting
 20 of at least 200 probation officers to carry a firearm in accordance

1 with the provisions of paragraph (17) of subsection c. of
2 N.J.S.2C:39-6 and regulations adopted by the Attorney General.
3 The legislation also granted these probation officers the authority to
4 arrest probationers, enforce the criminal laws of this State, and
5 enforce warrants for the apprehension and arrest of probationers
6 who violate conditions of probation.

7 In April 2006, the New Jersey Supreme Court ruled that
8 P.L.2001, c.362 (C.2B:10A-1 et al.) was unconstitutional because it
9 violated the separation of powers doctrine. The court stated that it
10 is the responsibility of the Judiciary to define the duties of
11 probation officers. The court also reiterated its position that
12 probation officers are not law enforcement officers, but impartial
13 agents of the Judiciary.