

ASSEMBLY, No. 203

STATE OF NEW JERSEY

213th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2008 SESSION

Sponsored by:

Assemblyman GORDON M. JOHNSON

District 37 (Bergen)

Assemblywoman LINDA R. GREENSTEIN

District 14 (Mercer and Middlesex)

Co-Sponsored by:

Assemblyman Merkt

SYNOPSIS

Transfers all probation functions and employees to Bureau of Probation in State Parole Board.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel



1 AN ACT concerning probation officers, supplementing chapter 4 of
2 Title 30 of the Revised Statutes, and amending P.L.1968, c.303.

3

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

6

7 1. (New section) All of the functions, powers and duties of the
8 New Jersey State Judiciary concerning probation, except as herein
9 otherwise provided, are hereby transferred to the Bureau of
10 Probation in the State Parole Board and shall be exercised by the
11 Chairman of the State Parole Board. Unless otherwise specified in
12 this act, this transfer shall be subject to the provisions of the "State
13 Agency Transfer Act," P.L.1971, c.375 (C.52:14D-1 et seq.). All
14 records, equipment, and other personal property, appropriations,
15 and any unexpended balances of funds appropriated or otherwise
16 available to the New Jersey State Judiciary pertaining to probation
17 officers subject to the provisions of this act shall be transferred to
18 the Bureau of Probation in the State Parole Board pursuant to the
19 "State Agency Transfer Act."

20

21 2. (New section) All probation officers appointed pursuant to
22 N.J.S.2A:168-5, including supervisory employees and those who
23 are case-related professional employees, and all employees who are
24 subject to the New Jersey State Judiciary contracts for the
25 professional supervisors unit and case-related professionals unit are
26 hereby transferred from the New Jersey State Judiciary to the
27 Bureau of Probation in the State Parole Board.

28

29 3. (New section) a. Nothing in this act, including any provision
30 concerning the transfer or use of funds or property, shall be
31 construed to alter or modify the responsibilities and specifications
32 for any probation officer position which are applicable prior to the
33 effective date of this act.

34 b. The implementation of this act in and of itself shall not be
35 construed to alter or modify the assignment of any probation officer
36 existing prior to the effective date of this act.

37 c. Nothing in this act shall be construed to alter or modify the
38 rights and privileges granted to probation officers pursuant to the
39 provisions of P.L.2001, c.362 (C.2B:10A-1 et seq.) and any judicial
40 determinations concerning that act.

41

42 4. (New section) Whenever any statute, rule, regulation, order,
43 contract, tariff, document, reorganization plan, or judicial or
44 administrative proceeding concerning probation officers refers to

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 the New Jersey State Judiciary or the Administrative Office of the
2 Courts, the reference shall mean and refer to the Bureau of
3 Probation in the State Parole Board, unless otherwise stated in this
4 act.

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6 5. (New section) a. The contracts concerning employee
7 organizations representing probation officers who are supervisory
8 employees and those who are case-related professional employees
9 which expire on June 30, 2008, or any successor agreement, shall
10 continue in full force and effect until the expiration date; provided,
11 however, that the employee organizations and the Chairman of the
12 State Parole Board, immediately upon the effective date of this act,
13 shall negotiate any changes appropriate to these contracts as a result
14 of the transfer. In addition, such employees shall be subject to the
15 rules and regulations of the Public Employment Relations
16 Commission, except as modified herein, in connection with
17 successor agreements to those which expire June 30, 2008.

18 b. This act shall not be construed to transfer any employee who
19 is represented by any other employee organization; provided,
20 however, this act shall be construed to transfer Chief Probation
21 Officers and Assistant Chief Probation Officers to the Bureau of
22 Parole in the State Parole Board.

23 c. Notwithstanding any law, rule, regulation, contract, or
24 agreement to the contrary, the categories of employees represented
25 in the Judiciary professional supervisors unit and case-related
26 professional unit shall continue as they existed prior to the effective
27 date of this act after the transfer of probation functions, powers and
28 duties to the State Parole Board.

29
30 6. (New section) All employees transferred pursuant to the
31 provisions of this act shall be employees of the Bureau of Probation
32 in the State Parole Board and shall retain their career service
33 employment status and collective bargaining status, including all
34 rights of tenure, retirement, pension, disability, leave of absence or
35 similar benefits, held on the effective date of this act.

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37 7. (New section) Any act which is inconsistent with this act
38 shall be considered modified or repealed. The modification shall be
39 consistent with the provisions of this act.

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41 8. Section 7 of P.L.1968, c.303 (C.34:13A-5.3) is amended to
42 read as follows:

43 7. Except as hereinafter provided, public employees shall have,
44 and shall be protected in the exercise of, the right, freely and
45 without fear of penalty or reprisal, to form, join and assist any
46 employee organization or to refrain from any such activity;
47 provided, however, that this right shall not extend to elected

1 officials, members of boards and commissions, managerial
2 executives, or confidential employees, except in a school district the
3 term managerial executive shall mean the superintendent of schools
4 or his equivalent, nor, except where established practice, prior
5 agreement or special circumstances dictate the contrary, shall any
6 supervisor having the power to hire, discharge, discipline, or to
7 effectively recommend the same, have the right to be represented in
8 collective negotiations by an employee organization that admits
9 nonsupervisory personnel to membership, and the fact that any
10 organization has such supervisory employees as members shall not
11 deny the right of that organization to represent the appropriate unit
12 in collective negotiations; and provided further, that, except where
13 established practice, prior agreement, or special circumstances
14 dictate the contrary, or for employee organizations with members
15 who are probation officers, no policeman shall have the right to join
16 an employee organization that admits employees other than
17 policemen to membership. The negotiating unit shall be defined
18 with due regard for the community of interest among the employees
19 concerned, but the commission shall not intervene in matters of
20 recognition and unit definition except in the event of a dispute.

21 Representatives designated or selected by public employees for
22 the purposes of collective negotiation by the majority of the
23 employees in a unit appropriate for such purposes, by the majority
24 of the employees voting in an election conducted by the
25 commission as authorized by this act or, at the option of the
26 representative in a case in which the commission finds that only one
27 representative is seeking to be the majority representative, by a
28 majority of the employees in the unit signing authorization cards
29 indicating their preference for that representative, shall be the
30 exclusive representatives for collective negotiation concerning the
31 terms and conditions of employment of the employees in such unit.
32 An authorization card indicating preference shall not be valid unless
33 it is printed in a language understood by the employees who signs
34 it.

35 Nothing herein shall be construed to prevent any official from
36 meeting with an employee organization for the purpose of hearing
37 the views and requests of its members in such unit so long as (a) the
38 majority representative is informed of the meeting; (b) any changes
39 or modifications in terms and conditions of employment are made
40 only through negotiation with the majority representative; and (c) a
41 minority organization shall not present or process grievances.
42 Nothing herein shall be construed to deny to any individual
43 employee his rights under Civil Service laws or regulations. When
44 no majority representative has been selected as the bargaining agent
45 for the unit of which an individual employee is a part, he may
46 present his own grievance either personally or through an

1 appropriate representative or an organization of which he is a
2 member and have such grievance adjusted.

3 A majority representative of public employees in an appropriate
4 unit shall be entitled to act for and to negotiate agreements covering
5 all employees in the unit and shall be responsible for representing
6 the interest of all such employees without discrimination and
7 without regard to employee organization membership. Proposed
8 new rules or modifications of existing rules governing working
9 conditions shall be negotiated with the majority representative
10 before they are established. In addition, the majority representative
11 and designated representatives of the public employer shall meet at
12 reasonable times and negotiate in good faith with respect to
13 grievances, disciplinary disputes, and other terms and conditions of
14 employment. Nothing herein shall be construed as permitting
15 negotiation of the standards or criteria for employee performance.

16 When an agreement is reached on the terms and conditions of
17 employment, it shall be embodied in writing and signed by the
18 authorized representatives of the public employer and the majority
19 representative.

20 Public employers shall negotiate written policies setting forth
21 grievance and disciplinary review procedures by means of which
22 their employees or representatives of employees may appeal the
23 interpretation, application or violation of policies, agreements, and
24 administrative decisions, including disciplinary determinations,
25 affecting them, provided that such grievance and disciplinary
26 review procedures shall be included in any agreement entered into
27 between the public employer and the representative organization.
28 Such grievance and disciplinary review procedures may provide for
29 binding arbitration as a means for resolving disputes. Except as
30 otherwise provided herein, the procedures agreed to by the parties
31 may not replace or be inconsistent with any alternate statutory
32 appeal procedure nor may they provide for binding arbitration of
33 disputes involving the discipline of employees with statutory
34 protection under tenure or civil service laws, except that such
35 procedures may provide for binding arbitration of disputes
36 involving the minor discipline of any public employees protected
37 under the provisions of section 7 of P.L.1968, c.303 (C.34:13A-
38 5.3), other than public employees subject to discipline pursuant to
39 R.S.53:1-10. Grievance and disciplinary review procedures
40 established by agreement between the public employer and the
41 representative organization shall be utilized for any dispute covered
42 by the terms of such agreement. For the purposes of this section,
43 minor discipline shall mean a suspension or fine of less than five
44 days unless the employee has been suspended or fined an aggregate
45 of 15 or more days or received more than three suspensions or fines
46 of five days or less in one calendar year.

1 Where the State of New Jersey and the majority representative
2 have agreed to a disciplinary review procedure that provides for
3 binding arbitration of disputes involving the major discipline of any
4 public employee protected under the provisions of this section,
5 other than public employees subject to discipline pursuant to
6 R.S.53:1-10, the grievance and disciplinary review procedures
7 established by agreement between the State of New Jersey and the
8 majority representative shall be utilized for any dispute covered by
9 the terms of such agreement. For the purposes of this section,
10 major discipline shall mean a removal, disciplinary demotion,
11 suspension or fine of more than five days, or less where the
12 aggregate number of days suspended or fined in any one calendar
13 year is 15 or more days or unless the employee received more than
14 three suspensions or fines of five days or less in one calendar year.

15 In interpreting the meaning and extent of a provision of a
16 collective negotiation agreement providing for grievance
17 arbitration, a court or agency shall be bound by a presumption in
18 favor of arbitration. Doubts as to the scope of an arbitration clause
19 shall be resolved in favor of requiring arbitration.

20 (cf: P.L.2005, c.380, s.1)

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

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STATEMENT

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28 This bill creates a Bureau of Probation in the State Parole Board.
29 Except as provided in the bill, all of the functions, powers, and
30 duties of the New Jersey State Judiciary concerning probation are
31 transferred to the Bureau of Probation in the State Parole Board.
32 The transfer would be subject to the provisions of the "State
33 Agency Transfer Act," P.L.1971, c.375 (C.52:14D-1 et seq.).

34 Under the provisions of the bill, all probation officers and those
35 employees who are subject to the professional case-related contract
36 and the professional supervisors contract are transferred from the
37 New Jersey State Judiciary to the Bureau of Probation in the State
38 Parole Board.

39 The bill provides that contracts concerning probation officers
40 who are supervisory employees and those who are case-related
41 professional employees would continue in full force and effect until
42 their expiration. Any changes appropriate to these contracts as a
43 result of the transfer would immediately be negotiated by probation
44 officers' employee organizations and the State Parole Board.

45 The bill further specifies that all transferred employees would be
46 employees of the Bureau of Probation in the State Parole Board and
47 would retain their career service employment status and collective

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1 bargaining status, including all rights of tenure, retirement, pension,
2 disability, leave of absence or similar benefits, held on the bill's
3 effective date.

4 Finally, the bill amends section 7 of P.L.1968, c.303 (C.34:13A-
5 5.3) to permit the employee organizations which have represented
6 probation officers prior to the enactment of this bill to continue
7 their representation.