

SENATE CONCURRENT RESOLUTION No. 37

STATE OF NEW JERSEY

214th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2010 SESSION

Sponsored by:

Senator JOHN A. GIRGENTI

District 35 (Bergen and Passaic)

Senator STEPHEN M. SWEENEY

District 3 (Salem, Cumberland and Gloucester)

Co-Sponsored by:

Senators Sacco, Stack, Sarlo, Connors, Cardinale, Whelan, Madden, Oroho and S.Kean

SYNOPSIS

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

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel

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

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

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

PROPOSED AMENDMENT

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

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

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

the general election.

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

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

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

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

b. In every municipality the following question:

		<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>
	YES	<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>
	NO	<p>INTERPRETIVE STATEMENT 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</p>

	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.
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STATEMENT

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

The Legislature passed P.L.2001, c.362 (C.2B:10A-1 et al.) to establish a “Probation Officer Community Safety Unit” consisting of at least 200 probation officers to carry a firearm in accordance with the provisions of paragraph (17) of subsection c. of N.J.S.2C:39-6 and regulations adopted by the Attorney General. The legislation also granted these probation officers the authority to arrest probationers, enforce the criminal laws of this State, and enforce warrants for the apprehension and arrest of probationers who violate conditions of probation.

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