

SENATE, No. 330

STATE OF NEW JERSEY 215th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2012 SESSION

Sponsored by:

Senator LINDA R. GREENSTEIN
District 14 (Mercer and Middlesex)

Co-Sponsored by:

Senator Allen

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:

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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
45 the New Jersey State Judiciary or the Administrative Office of the

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 Courts, the reference shall mean and refer to the Bureau of
2 Probation in the State Parole Board, unless otherwise stated in this
3 act.

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

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

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

28
29 6. (New section) All employees transferred pursuant to the
30 provisions of this act shall be employees of the Bureau of Probation
31 in the State Parole Board and shall retain their career service
32 employment status and collective bargaining status, including all
33 rights of tenure, retirement, pension, disability, leave of absence or
34 similar benefits, held on the effective date of this act.

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

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

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

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

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

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

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

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

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

45 Where the State of New Jersey and the majority representative
46 have agreed to a disciplinary review procedure that provides for
47 binding arbitration of disputes involving the major discipline of any

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

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

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

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

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STATEMENT

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

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

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

42 The bill further specifies that all transferred employees would be
43 employees of the Bureau of Probation in the State Parole Board and
44 would retain their career service employment status and collective
45 bargaining status, including all rights of tenure, retirement, pension,
46 disability, leave of absence or similar benefits, held on the bill's
47 effective date.

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1 Finally, the bill amends section 7 of P.L.1968, c.303 (C.34:13A-
2 5.3) to permit the employee organizations which have represented
3 probation officers prior to the enactment of this bill to continue
4 their representation.