

[First Reprint]

ASSEMBLY, No. 2951

STATE OF NEW JERSEY
211th LEGISLATURE

INTRODUCED MAY 27, 2004

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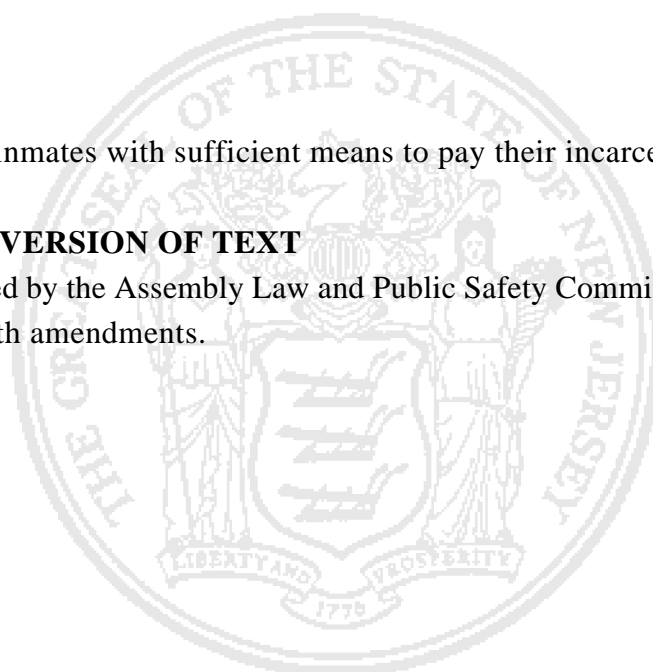
Assemblyman Connors

SYNOPSIS

Requires inmates with sufficient means to pay their incarceration costs.

CURRENT VERSION OF TEXT

As reported by the Assembly Law and Public Safety Committee on October 21, 2004, with amendments.



(Sponsorship Updated As Of: 11/5/2004)

1 AN ACT requiring certain inmates to pay the cost of their incarceration
2 and supplementing Title 30 of the Revised Statutes.

3
4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6
7 1. a. The Commissioner of Corrections shall establish and collect
8 a fee to cover the costs of confinement for each year that a person is
9 committed to the custody of the Department of Corrections.

10 b. The fee established in subsection a. of this section shall be
11 equivalent to the average cost to the department of incarcerating an
12 inmate for one year. This fee shall be prorated with respect to persons
13 incarcerated for 334 days or less. The calculation of the number of
14 days of incarceration shall include time served prior to conviction.

15 c. The determination of an inmate's assets, liabilities and dependents
16 for the purposes of this act shall be ascertained from information
17 contained in the presentence investigation report and findings and
18 orders of the sentencing court.

19 d. An inmate whose assets are equal to or below the ¹[federal
20 poverty guidelines] State median household income level¹ are exempt
21 from the provisions of this act.

22 e. If the inmate's financial situation changes subsequent to the
23 preparation of the presentence investigation report, the commissioner
24 shall have discretion to waive the fee or impose a lesser fee if the
25 inmate demonstrates to the commissioner's satisfaction:

26 (1) that the inmate is unable to pay the fee and is unlikely to
27 become able to pay; or

28 (2) that imposition of the fee would unduly burden the inmate's
29 dependents.

30 f. Fees collected pursuant to this section may be used to enhance
31 alcohol and drug abuse prevention programs.

32 ¹g. The commissioner shall be responsible for establishing and
33 collecting the fee covering the costs of confinement for any inmate
34 confined in a facility defined in section 2 of P.L.1969, c.22 (C.30:4-
35 91.2).¹

36
37 ¹[2. a. The State shall have a lien against the property and income
38 of each inmate confined in a State correctional institution for the
39 amount of the fee established in section 1 of this act. A properly filed
40 lien shall have priority over all unrecorded encumbrances, except for
41 any restitutions, assessments or fines which the inmate is sentenced to

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly ALP committee amendments adopted October 21, 2004.

1 pay.

2 b. The lien shall be in a form prescribed by the commissioner and
3 shall contain the name of the inmate, date of incarceration, cost of
4 confinement and amount of the fee at the date of filing the lien. The
5 lien shall be signed by the commissioner or a designee. This
6 subsection shall not preclude the State from recovering any part of the
7 fee not covered by any lien.

8 c. The lien shall be filed with the clerk of the county or register of
9 deeds and mortgages, as the case may be, and shall immediately attach
10 to and become binding upon all real property in the ownership of the
11 inmate in the county where the lien is filed and shall have the force and
12 effect of a money judgment of the Superior Court.

13 If it is believed that the inmate is the owner of real property within
14 the State, but the exact location of this property is not known, then a
15 lien may be filed with the clerk of the Superior Court and shall become
16 binding upon all real property of the inmate wherever situate within
17 the State.

18 d. If it is found that an inmate is possessed of any goods, rights,
19 credits, chattels, moneys or effects which are held by any person, firm
20 or corporation for the present or future use of the inmate, then the lien
21 provided for in this section, or a notice of the existence of such lien,
22 may be forwarded by registered mail to the person, firm or corporation
23 and shall become binding upon any such property rights. The person,
24 firm or corporation shall thereafter be precluded from disposing of the
25 property rights until the lien is satisfied or the holder of the lien
26 consents to such disposal.

27 Any person, firm or corporation disposing of any such property or
28 moneys after receipt of notice of the lien shall be liable to the State for
29 the value of the property or moneys.

30 e. The clerk of the county or register of deeds and mortgages, or
31 clerk of the Superior Court, as the case may be, shall provide suitable
32 books in which he shall enter the liens filed under this section indexed
33 in the name of the inmate.

34 All liens and other papers required by this section shall be received
35 and recorded by the clerk of the county, register of deeds and
36 mortgages, or clerk of the Superior Court, as the case may be, without
37 payment of fees.

38 f. To discharge any lien or liens filed under this section, the
39 commissioner shall file with the clerk of the county, register of deeds
40 and mortgages or clerk of the Superior Court, as the case may be, a
41 duly acknowledged certificate setting forth the fact that the State
42 desires to discharge the lien of record.

43 The commissioner is authorized to compromise for settlement of
44 any lien filed under the provisions of this act for the maintenance of
45 any inmate. A memorandum of the compromise and settlement signed
46 by the commissioner shall be sufficient authorization for a complete

1 discharge of the lien.

2 g. To secure immediate discharge of any lien, a person may deposit
3 with the court cash in sufficient amount to cover the amount of the
4 lien or post a bond in an amount and with sureties to be approved by
5 the court. Satisfaction of the lien shall be filed with the county clerk
6 or register of deeds and mortgages, as the case may be, upon the
7 commissioner's receipt of proper notice that the lien has been
8 discharged under this subsection.]¹

9

10 ^{12.} a. The State shall have a lien against the property and income
11 of each inmate confined in a State correctional institution for the
12 amount of the fee established in section 1 of this act. Nothing herein
13 shall preclude the State from recovering for any costs of confinement
14 not covered by any lien.

15 b. To perfect the lien, the State Treasurer or commissioner may
16 issue a certificate to the clerk of the Superior Court stating that the
17 person identified in the certificate is indebted under the provisions of
18 this act in such an amount as shall be stated in the certificate. The
19 certificate shall reference the statute under which the indebtedness
20 arises. Thereupon the clerk shall immediately enter upon the record of
21 docketed judgments the name and date of birth of such inmate as
22 debtor; the State as creditor; the address of such inmate if shown in
23 the certificate; the amount of the debt so certified; a reference to the
24 statute under which the debt is assessed; and the date of making such
25 entries. The docketing of the certificate shall have the same force and
26 effect as a civil judgment docketed in the Superior Court and the State
27 shall have all the remedies and may take all of the proceedings for the
28 collection thereof which may be had or taken upon the recovery of a
29 judgment in action, but without prejudice to any right to appeal. Upon
30 entry by the clerk of the certificate in the record of docketed
31 judgments in accordance with the provisions of this subsection,
32 interest in the amount specified by court rule for post-judgment
33 interest shall accrue from the date of the docketing of the certificate;
34 provided, however, payment of the interest may be waived by the State
35 Treasurer. In the event that the debt remains unpaid following the
36 issuance of the certificate of debt and the State Treasurer takes any
37 further collections action including referral of the matter to the
38 Attorney General or his designee, the fee imposed in lieu of the actual
39 cost of collection may be 20% of the debt or \$200, whichever is
40 greater.

41 c. The clerk of the Superior Court shall enter the certificate of debt
42 in the Civil Judgment and Order Docket, as provided in the Rules of
43 Court.

44 All certificates of debt and other papers incidental thereto required
45 for the purposes of this section shall be received and recorded by the
46 clerk of the Superior Court, without payment of fees.

1 d. To discharge any lien or liens filed pursuant to this section, the
2 State Treasurer or his duly constituted agent shall file with the clerk
3 of the Superior Court, a duly acknowledged certificate setting forth
4 the fact that the lien of record should be discharged.

5 The State Treasurer is authorized to compromise for settlement any
6 lien filed under the provisions of this section for costs of an inmate's
7 confinement. A memorandum of compromise and settlement signed
8 by the State Treasurer shall be sufficient authorization for a complete
9 discharge of the lien.

10 e. Any person desiring to secure immediate discharge of any lien
11 may deposit with the court cash in an amount sufficient to cover the
12 amount of the lien, or post a bond in an amount and with sureties
13 approved by the court. Upon proper notice to the State of such
14 deposit or bond, a satisfaction of the lien shall be filed forthwith with
15 the clerk of the Superior Court.

16 f. Any person affected in any manner, whether directly or indirectly
17 by any lien filed under the provisions of this section, and desiring to
18 examine the validity of the lien or the facts and circumstances
19 surrounding the entry of the lien, may do so in an action brought in the
20 county where the lien was filed. The action shall be brought against the
21 State and the court may proceed in the action in a summary manner
22 and enter such judgment as it may deem appropriate.¹

23
24 3. This act shall take effect on the first day of the fourth month
25 following enactment.