



## NEW JERSEY LAW REVISION COMMISSION

### **Draft Tentative Report Regarding Prisons and Youth Correctional Facilities - Farms, Camps, and Quarries (N.J.S. 30:4-136; N.J.S. 30:4-146)**

**September 11, 2023**

The New Jersey Law Revision Commission is required to “[c]onduct a continuous examination of the general and permanent statutory law of this State and the judicial decisions construing it” and to propose to the Legislature revisions to the statutes to “remedy defects, reconcile conflicting provisions, clarify confusing language, and eliminate redundant provisions.” *N.J.S. 1:12A-8*.

This Report is distributed to advise interested persons of the Commission's tentative recommendations and to notify them of the opportunity to submit comments. Comments should be received by the Commission no later than **November 20, 2023**.

The Commission will consider these comments before making its final recommendations to the Legislature. The Commission often substantially revises tentative recommendations as a result of the comments it receives. If you approve of the Report, please inform the Commission so that your approval can be considered along with other comments. Please send comments concerning this Report or direct any related inquiries, to:

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## Project Summary

Since 1918, the statutory definition of “State Prison” has included “the existing prison in Trenton.”<sup>1</sup> The definition of youth correctional institutions “include the existing Youth Reception and Correctional Center, Yardville, and the Youth Correctional Institutions at Bordentown and Annandale.”<sup>2</sup> These statutes, defining places of incarceration, also include references to “any and all farms,<sup>3</sup> camps,<sup>4</sup> *quarries* or grounds” where individuals sentenced to incarceration “may from time to time be kept, housed, or employed.”<sup>5</sup>

While the New Jersey Department of Corrections (“NJDOC” or “DOC”) and the Juvenile Justice Commission (“JJC”) maintain correctional farms and camps, neither entity operates a prison quarry. The statutory references to quarries appear to be outdated.<sup>6,7</sup>

The Commission recommends the elimination of the anachronistic statutory references to quarries and the clarification of the language regarding where persons convicted of criminal offenses or those found to be delinquent may be confined by the DOC and the JJC, respectively.

## Statutes Considered

### **N.J.S. 30:4-136. State prison defined**

The State Prison shall include the existing prison in Trenton or wherever it may hereafter be located, and all institutions, farms, camps, **quarries** or grounds designated by the State Board where convicts sentenced to the State Prison may from time to time be kept, housed or employed.

### **N.J.S. 30:4-146. Youth correctional institution complex defined**

The Youth Correctional Institution Complex shall include the existing Youth Reception and Correctional Center, Yardville, and the Youth Correctional Institutions at Bordentown and Annandale and all new or additional institutions, farms, camps, **quarries** or grounds designated by the State board, where persons

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<sup>1</sup> N.J. STAT. ANN. § 30:4-136 (West 2023).

<sup>2</sup> N.J. STAT. ANN. § 30:4-146.

<sup>3</sup> See N.J. STAT. ANN. § 30:4-92 (providing that sufficiently trustworthy inmates are permitted to be employed in honor camps or farms); N.J. STAT. ANN. § 30:4-98 (granting State Board the power to assign any number of inmates of an institution to meet any emergency arising from scarcity of labor on farms); N.J. STAT. ANN. § 30:4-144 (noting that eight hours’ service constitutes a full day’s labor for those employed at the state prison farm at Leesburg); N.J. STAT. ANN. § 30:4-145 (providing for the appropriation for the transportation of prisoners and guards to and from the prison farms and camps); N.J. STAT. ANN. § 30:4-179 to -182 (referring in each of the four statutes to “farmer guards”).

<sup>4</sup> See N.J. STAT. ANN. § 30:4-92 (providing that sufficiently trustworthy inmates are permitted to be employed in honor camps or farms); N.J. STAT. ANN. § 30:4-145 (providing for the appropriation for the transportation of prisoners and guards to and from the prison farm and camps).

<sup>5</sup> N.J. STAT. ANN. §§ 30:4-136 and 4-146. (Emphasis added).

<sup>6</sup> See *infra* discussion of the NJDOC’s “Offender and Characteristics Report” at p. 11.

<sup>7</sup> N.J. STAT. ANN. § 1:12A-8(a) (mandating that the Commission “[c]onduct a continuous examination of the general and permanent statutory law of this state... for the purpose of discovering... anachronisms...”).

sentenced to the Youth Correctional Institution Complex may, from time to time, be kept, housed or employed.

## Background

There is little in New Jersey’s history of prison labor that explains the reason for the inclusion of the terms *farms, camps, and quarries* in the definition of “State Prison.”<sup>8</sup> The reports from the early 1900s on the subjects of prison labor<sup>9</sup> and its reform<sup>10</sup> suggest that the elimination of contract labor and the problem of prison overcrowding appear to have influenced the inclusion of these geographic locales in New Jersey’s statutes.

In the early 1900s, New Jersey Legislature created two Commissions to address the employment-related changes that resulted from the State’s abolition of contract labor.<sup>11</sup> The Convict Labor Commission was tasked with formulating “a comprehensive plan for the initiation and use of the labor of all convicts on public roads, in public parks, in forestry and in other ways to be the public benefit, not in competition with free labor.”<sup>12</sup> The Prison Labor Commission had “executive authority and control of the prisoners in their working hours” and recommend “changes in the law and [the] adjustment of authority and responsibility.”<sup>13</sup>

At that time, New Jersey had one central prison, built in the early 1800s, which was located in Trenton and subsequently “developed from the early times of the state’s history.”<sup>14</sup> During the next century, the prison grew and filled its original five-acre tract of land with “numerous cell houses, workshops and other buildings.”<sup>15</sup> The expansion of the prison left the facility with little vacant space.<sup>16</sup> The growth of the facility made it “practically impossible to provide a suitable exercise court for the prisoners during the very short daily intervals when they may have a glimpse of the sky and an opportunity to fill their lungs with fresh air...”<sup>17</sup>

The prison in Trenton was not the only facility in the New Jersey penal system at that time. The New Jersey prison system also included “a reformatory of *limited acreage* at Rahway for men, [and] a reformatory site for women on a large *farm* near Clinton...”<sup>18</sup> Each of these sites required

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<sup>8</sup> N.J. STAT. ANN. §§ 30:4-136 and 4-146 (noting the absence of any legislative history).

<sup>9</sup> Sydney Wilmot, *Use of Convict Labor for Highway Construction in the North*, Proceedings of the Acad. of Pol. Sci. in the City of New York, Vol. 4, No. 2, 6, 36 (Jan. 1914).

<sup>10</sup> C. L. Stonaker, Gen. Sec’y, N.J. State Charities Aid & Prison Reform Ass’n, *Prison Labor Reform in New Jersey*, The Annals of the American Academy of political and Social Science, Vol. 46, Prison Labor 154-60 (Mar. 1913).

<sup>11</sup> Stonaker, *supra* note 10, at 154. *See generally* The 1885 Alien Contract Labor Law (“Foran Act”) Sess. II Chap. 164; 23 Stat. 332 (Feb. 26, 1885) (making it unlawful “to prepay the transportation, or in any way encourage the importation or migration of any alien or aliens... into the United States... under any contract agreement... made previous to the importation or migration of such alien... to perform labor or service of any kind in the United States....”).

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

<sup>14</sup> *Id.*

<sup>15</sup> *Id.*

<sup>16</sup> *Id.*

<sup>17</sup> *Id.* at 155.

<sup>18</sup> *Id.* (Emphasis added).

the construction of permanent buildings in which to house its prisoners.<sup>19</sup> In addition to the twenty-one county jails, New Jersey maintained three workhouses.<sup>20</sup> The workhouses did not utilize contract labor and “no form of labor [had] been devised for the county jail, other than conventional stone piles, the product of which [was] used on the county roads.”<sup>21</sup>

On April 11, 1910, the Legislature authorized the “outside employment of prisoners.”<sup>22</sup> In the Spring of 1912, New Jersey enacted laws that authorized the use of prisoner labor on public roads.<sup>23</sup> Before 1913, the State of Jersey did not utilize the labor of individuals convicted of criminal offenses on the roads of New Jersey.<sup>24</sup> At that time, New Jersey was considered a “pioneer among eastern states in using convict labor....”<sup>25</sup> The use of this readily available labor pool was justified as a means of alleviating New Jersey’s burgeoning prison population.<sup>26</sup> When the prison labor legislation was enacted “there were but 1300 cells for over 1450 men.”<sup>27</sup>

To ameliorate the crowded prison conditions and the limited facility space, the Prison Labor Commission recommended that the State acquire a large tract of land on which to build new prison facilities.<sup>28</sup> In September 1913, “a prison farm was purchased consisting of 1,000 acres of waste land near Leesburg in Cumberland County.”<sup>29</sup> The Commission believed that “for a moderate cost the prisoners [could] clear the land and bring it under profitable cultivation.”<sup>30</sup> The establishment of this prison farm meant that “a considerable portion of the state convicts [could be housed] upon this farm tract, thereby materially reducing the population within the prison walls at Trenton.”<sup>31</sup>

The State did not foreclose the possibility of other non-prison settings in which to house its prisoners. By 1913, “[r]oad building and maintenance and repair of state highways, including a stone quarry and a crushing plant, park development and forestry [were] yet to be worked out.”<sup>32</sup> By 1917, New Jersey established four “road camps” that employed prisoners on the roads of the state.<sup>33</sup> These camps were lauded for their success, which was attributed to the “hygienic and disciplinary value of the outdoor work.”<sup>34</sup> In time, the Mercer County Workhouse Quarry would be utilized to process rock into subbase material for the county road department.<sup>35</sup> Before that

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<sup>19</sup> *Id.*

<sup>20</sup> *Id.* (Trenton, Newark, and Jersey City).

<sup>21</sup> *Id.*

<sup>22</sup> George W. Kirchwey, Report of the New Jersey Prison Inquiry Commission, 9 J. Am. Inst. Crim. L. & Criminology 207, 223 (May 1918 to Feb. 1919).

<sup>23</sup> Wilmot, *supra* note 9, at 276.

<sup>24</sup> *Id.*

<sup>25</sup> *Id.* (noting that New Jersey was “[f]ollowing the lead of Colorado, other western states, and Onondaga County, New York” in the use of prison labor).

<sup>26</sup> *Id.*

<sup>27</sup> *Id.*

<sup>28</sup> Stonaker, *supra* note 10, at 156.

<sup>29</sup> *Id.*

<sup>30</sup> *Id.*

<sup>31</sup> *Id.*

<sup>32</sup> *Id.*

<sup>33</sup> Kirchwey, *supra* note 22, at 223.

<sup>34</sup> *Id.*

<sup>35</sup> *Mercer County Workhouse Quarry, Moore, Hopewell Twp., Mercery Co., N.J., USA*, MINDAT.ORG, <https://www.mindat.org/loc-8362.html#> (last visited Apr. 05, 2023).

time, “Mercer County had used a few [prisoners] in its stone-crushing quarry....”<sup>36</sup> Similarly, some of the prisoners in the Essex County penitentiary engaged in quarry-type work.<sup>37</sup>

In the New Jersey Laws of 1918, specific provisions relating to correctional institutions and reformatories were enacted by the Legislature.<sup>38</sup> The definition of “state prison” included “the existing prison in the city of Trenton... and all *farms, camps, quarries* or grounds where the convicts sentenced to State Prison may from time to time be kept, housed or employed.”<sup>39</sup> With only minor modifications in 1948, the substance of this statute was the basis of N.J.S. 30:4-136.<sup>40</sup> Similarly, the Legislature defined the New Jersey Reformatory which at the time was near the city of Rahway to include “the existing reformatory... and any and all farms, camps, quarries, or grounds, where the prisoners sentenced to the reformatory may, from time to time, be kept, housed or employed.” Although this statute was amended in 1948,<sup>41</sup> 1963,<sup>42</sup> and 1970,<sup>43</sup> the references to *farms, camps, and quarries* remain part of what is now N.J.S. 30:4-146.

In 1976, the Legislature established the Department of Corrections (“DOC”) in the Executive Branch of the State Government.<sup>44</sup> To this time, the DOC “provide[s] for the custody, care, discipline, training and treatment of adult offenders committed to State correctional institutions or on parole....”<sup>45</sup> In addition, the DOC is responsible for “[d]evelop[ing] alternatives to conventional incarceration for those offenders who can be dealt with more effectively in less restrictive, community-based facilities and programs.”<sup>46</sup>

When the DOC was created, it assumed control and supervision of the State’s eight correctional institutions – none of which contained a quarry.<sup>47</sup> In addition, the DOC was given authority over “[a]ny State institution and satellite facilities....”<sup>48</sup> The DOC’s control over any state institution or satellite facility where prisoners are housed included farms and camps.

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<sup>36</sup> *Wilmot*, *supra* note 9, at 36.

<sup>37</sup> *Id.* (Stone crushing by hand labor commissioned at a rate of fifteen cents per day).

<sup>38</sup> *Compare* L. 1918, c. 147, § 301, p. 364 (defining state prison); L. 1918, c. 147, § 315, p. 367 (defining youth correctional institution complex) *with* N.J. STAT. ANN. §§ 30:4-136 and 4-146.

<sup>39</sup> L. 1918, c. 147, § 301, p. 367. (Emphasis added).

<sup>40</sup> *See supra* Statutes Considered at 1.

<sup>41</sup> L. 1948, c. 60, § 3.

<sup>42</sup> L. 1963, c. 65, § 1.

<sup>43</sup> L. 1970, c. 300 § 3.

<sup>44</sup> N.J. STAT. ANN. § 30:1B-2. *See* N.J. STAT. ANN. § 30:1B-8 (transferring control of State Correctional Institutions from the Department of Institutions and Agencies to the Department of Corrections including “[a]ny State institution and satellite facilities....”).

<sup>45</sup> *Id.*

<sup>46</sup> N.J. STAT. ANN. § 30:1B-2(a)(2).

<sup>47</sup> *See* N.J. STAT. ANN. § 30:1B-8 (New Jersey State Prison, East Jersey State Prison, Bayside State Prison, Garden State Reception and Youth Correctional Facility; Albert C. Wagner Youth Correctional Facility; Edna Mahan Correctional Facility for Women; William H. Fauver Correctional Facility; and Adult Diagnostic and Treatment Center, Avenel).

<sup>48</sup> *Id.*

## State Prison, State Correctional Facility, Penal Institution

When imposing a *State* prison sentence, the judge does not specify the facility to which a defendant will be confined. For sentences that exceed one year “the court shall commit [the defendant] to the custody of the Commissioner of the Department of Corrections for the term of [the defendant’s] sentence and until released in accordance with law.”<sup>49</sup> The Legislature has empowered the Commissioner of the Department of Corrections “to determine a specific State correctional institution... for the proper and secure incarceration of the inmate.”<sup>50</sup>

### • *The State Prison*

In New Jersey, the term “state prison” appears in thirty-three statutes.<sup>51</sup> The term, however, is defined only once.<sup>52</sup> Since 1948, N.J.S. 30:4-136 has defined “State Prison,” with a direct reference to the then-existing State Prison located in Trenton – or wherever it may subsequently be located.<sup>53</sup> The definition is broad enough to encompass “all institutions” where the DOC may confine individuals serving a state prison term,<sup>54</sup> indicating that the New Jersey State Prison is one of the many penal institutions managed by the DOC.<sup>55</sup>

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<sup>49</sup> N.J. STAT. ANN. § 2C:43-10(a) (providing two exceptions – young adult offenders as set forth in N.J.S. 2C:43-5; and a person sentenced to imprisonment for a return not exceeding 18 months, who may be committed to a county correctional facility).

<sup>50</sup> N.J. STAT. ANN. § 30:4-85.1.

<sup>51</sup> N.J. STAT. ANN. § 160-10 (fugitives from justice found in this state); N.J. STAT. ANN. § 2C:29-10 (electronic communication devices within correctional or detention facilities); N.J. STAT. ANN. § 2C:35-14.1 (mandatory professional diagnostic assessments); N.J. STAT. ANN. § 2C:35-14.2 (determination as to drug dependency status prior to sentencing); N.J. STAT. ANN. § 2C:43-10 (place of imprisonment); N.J. STAT. ANN. § 5:5-71 (unlawful acts); N.J. STAT. ANN. § 9:17B-2 (laws unaffected by act); N.J. STAT. ANN. § 21:1A-142 (possession of explosive bombs); N.J. STAT. ANN. § 22A:4-8 (fees and mileage of sheriffs and other officers); N.J. STAT. ANN. § 30:1B-6.6 (legislative findings and declarations); N.J. STAT. ANN. § 30:1B-8 (transfer of correctional institutions to DOC); N.J. STAT. ANN. § 30:1B-8.1 (references to certain prisons as re-named); N.J. STAT. ANN. § 30:4-6 (duties of chief executive officer); N.J. STAT. ANN. § 30:4-8.1 (prisoners at bedside or funeral of dying or deceased relative); N.J. STAT. ANN. § 30:4-16.5 (definition of “Inmate”); N.J. STAT. ANN. § 30:4-82.7 (definition of “state correctional facility”); N.J. STAT. ANN. § 30:4-85 (transfers to State prison); N.J. STAT. ANN. § 30:4-85.1 (transfer of persons committed to county jails, etc.); N.J. STAT. ANN. § 30:4-88 (prisoners conveyed by sheriffs); N.J. STAT. ANN. § 30:4-91.3c (definition of state correctional facility); N.J. STAT. ANN. § 30:4-123.51 (eligibility for parole); **N.J. STAT. ANN. § 30:4-136 (State prison defined)**; N.J. STAT. ANN. § 30:4-139 (United States prisoners); N.J. STAT. ANN. § 30:4-144 (hours of practice); N.J. STAT. ANN. § 30:4-145 (advances for transporting guards and prisoners); N.J. STAT. ANN. § 30:4-147 (classes committed); N.J. STAT. ANN. § 43:21-19 (definitions); N.J. STAT. ANN. § 48:12-109 (State officials and employees entitled to free transportation); N.J. STAT. ANN. § 51:3-3 (injuring pillars); N.J. STAT. ANN. § 52:13-10 (sentence; order of commitment); N.J. STAT. ANN. § 53:1-20.3 (release of prisoners); N.J. STAT. ANN. § 30:3-5(2) (use of moneys); and N.J. STAT. ANN. § 30:3-6(1) (appropriation from state institutional construction fund).

<sup>52</sup> N.J. STAT. ANN. § 30:4-136.

<sup>53</sup> *Id.* See N.J. STAT. ANN. § 30:1B-8.1 (renaming Trenton State Prison to New Jersey State Prison); and N.J. STAT. ANN. § 30:1B-8.2 (prohibiting any correctional institution from including “as part of its name or title the name of any local governmental unit.”).

<sup>54</sup> N.J. STAT. ANN. § 30:4-136.

<sup>55</sup> *cf. State v. J.Z.*, No. A-4480-11T2, 2014 WL 2591273, \*2 (App. Div. June 11, 2014) (noting that although the DOC is responsible for the operation of the Special Treatment Unit, this facility it is not a State prison or penal institution rather it is a facility for the “custody, care, and treatment of sexually violent predators.”).

A defendant who is sentenced to a State prison term may be confined to any one of a number of locations within the organizational framework of the DOC.<sup>56</sup> Currently, the DOC oversees nine “main facilities,”<sup>57</sup> the Adult Diagnostic and Treatment Center, and any State institution or satellite facility.<sup>58</sup> Of these facilities, five include “State Prison”<sup>59</sup> in their name and three are identified as “correctional facilities.”<sup>60</sup> The names of these institutions suggest that the definition of State Prison should be broad enough to include any institutions or facilities designated by the Commissioner as a place of confinement.<sup>61</sup>

- *State Correctional Facility*

In New Jersey, the term “state correctional facility”<sup>62</sup> is utilized in fifty-five statutes and has several different meanings.<sup>63</sup> It is defined in four separate statutes, each with a unique

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<sup>56</sup> *McBride v. McCorkle*, 44 N.J. Super. 468, 474 (App. Div. 1957) (noting that “The State Prison is one of the institutions within the organizational frame of the New Jersey Department of Institutions and Agencies.”). See discussion *supra*, Background, pp. 3-4.

<sup>57</sup> State of N.J., Dep’t of Corr., <https://www.state.nj.us/corrections/pages/index.shtml> (follow “Facilities” hyperlink). See also N.J. STAT. ANN. § 30:1B-8 (providing that the DOC

<sup>58</sup> N.J. STAT. ANN. § 30:1B-8 (transferring then existing correctional institutions to the Department of Corrections along with “[a]ny State institution or satellite facilities heretofore or hereafter established” for any purpose similar to those enumerated in the statute).

<sup>59</sup> *Id.* (Bayside State Prison; East Jersey State Prison; New Jersey State Prison; Northern State Prison; and Southwoods State Prison).

<sup>60</sup> *Id.* (Edna Mahan Correctional Facility for Women; Garden State Youth Correction; and Mid-State Correctional Facility).

<sup>61</sup> See N.J. STAT. ANN. § 30:4-91.2.

<sup>62</sup> For purposes of this Report, the focus was limited to state correctional facilities under the purview of the Commissioner of the Department of Corrections. *But cf.*, N.J. STAT. ANN. § 30:4-82.7 (defining county correctional facility as a “county jail, penitentiary, prison or workhouse.”) and *Bonilla v. Heil*, 126 N.J. Super. 538, 542 (App. Div. 1974) (noting that the adult penal system in New Jersey encompassed three distinct institutions that fell under county jurisdiction “jails, workhouses and penitentiaries” and that at the time each of New Jersey’s twenty-one counties had a jail, and a few had workhouses but only Essex and Hudson counties had penitentiaries). See also N.J. L. Revision Comm’n, FINAL REPORT RELATING TO THE USE OF THE WORD ‘WORKHOUSE’ IN THE NEW JERSEY STATUTES, (Apr. 15, 2021) (recommending the elimination of the term “workhouse,” and “penitentiary,” where appropriate). See also Richard Khavkine, *Historians lament destruction of former penitentiary in North Caldwell*, THE STAR-LEDGER, June 12, 2011 (noting that “[p]risoners last did time in that penitentiary in 2004, two years after the county agreed to sell the site to a developer....”); and, *Hudson County Jail & Penitentiary*, N.J. City Univ. (last updated Mar. 18, 2023), <https://njcu.libguides.com/jail> (“The Hudson county Penitentiary in Secaucus closed in 1953 after a roof collapsed a year earlier.”).

<sup>63</sup> N.J. STAT. ANN. § 2A:4A-26.1 (waiver of jurisdiction in juvenile delinquency case without consent of juvenile); N.J. STAT. ANN. § 2A:4A-44.1 (agreements between department of corrections and county for incarceration of certain juveniles in county juvenile detention facility); N.J. STAT. ANN. § 2A:4A-44.2 (awarding of public health emergency credits to juveniles in State facility); N.J. STAT. ANN. § 2A:4A-44.4 (notification to victim of crime of release of juvenile from custody within 365 days of award of public health emergency credits; information); N.J. STAT. ANN. § 2A:161A-4 (conduct of search by persons of same sex and at location without observation by unauthorized persons); N.J. STAT. ANN. § 2C:29-10 (electronic communication devices within correctional or detention facilities); N.J. STAT. ANN. § 2C:43-3.1 (additional assessments; collection and disposition by Victims of Crime Compensation Board); N.J. STAT. ANN. § 2C:46-1 (time and method of payment; condition of probation; transaction fees); N.J. STAT. ANN. § 2C:46-4 (fines, assessments, penalties and restitution; collection; disposition); N.J. STAT. ANN. § 11A:4-1.3 (exemption from civil service law enforcement examination requirement); N.J. STAT. ANN. § 11:9-2.1 (employment in correctional facility in county of 135,000 to 175,000); N.J. STAT. ANN. § 11:9-2.4 (inapplicability of act to current employees); N.J. STAT. ANN. § 24:6M-2 (definitions); N.J. STAT. ANN. § 26:2B-40 (drug treatment programs operating within State correctional facility or county jail); N.J. STAT. ANN. § 30:1B-6.2 (commission duties relative to

definition. The New Jersey Code of Criminal Justice defines a state correctional facility as “a State prison or *other penal institution*.”<sup>64</sup> The remaining definitions are set forth in Title 30, which contains statutes addressing institutions and agencies.

The Department of Corrections Act of 1976, contains statutes dedicated to “the protection of the public and for the care, custody, discipline and treatment of adult offenders committed to state correctional institutions or on parole.”<sup>65</sup> Within the *Act Concerning Inmates*, N.J.S. 30:1B-39, “State correctional facility” means “a correctional facility listed in section 8 of P.L. 1976, c. 98 (N.J.S. 30:1B-8).”<sup>66</sup> By cross-reference, the statute incorporates “any State institution and satellite

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pre-release of inmates); N.J. STAT. ANN. § 30:1B-6.2a (inmate assistance in acquiring copy of birth certificate); N.J. STAT. ANN. § 30:1B-6.4 (notice of outstanding financial obligations as a result of sentence; deferred payments); N.J. STAT. ANN. § 30:1B-6.8 (promoting visitation for inmates who are primary caretaker parents; duties of commissioner; conditions); N.J. STAT. ANN. § 30:1B-6.10 (coordination of reentry preparation and other rehabilitative services for inmates in all State correctional facilities); N.J. STAT. ANN. § 30:1B-6.13 (mandatory annual in-service training program for correctional police officers in State correctional facilities; contents); N.J. STAT. ANN. § 30:1B-6.15 (issuance of non-driver identification card prior to release); N.J. STAT. ANN. § 30:1B-10.2 (access to drug treatment programs in State correctional facilities); N.J. STAT. ANN. § 30:1B-39 (definitions relating to inmates at State correctional facilities); N.J. STAT. ANN. § 30:1B-40 (suspected abuse of inmate by employee; report; contents); N.J. STAT. ANN. § 30:1B-41 (inmate abuse reporting program for State correctional facilities; establishment; provisions; designated contact person; report; review; investigation); N.J. STAT. ANN. § 30:1B-46 (policy to limit cross gender searches and surveillance in State correctional facilities); N.J. STAT. ANN. § 30:4-3.1 (residency requirement); N.J. STAT. ANN. § 30:4-8.6 (correctional facility assignment to consider proximity to family); N.J. STAT. ANN. § 30:4-8.10 (inmate visitation privileges); N.J. STAT. ANN. § 30:4-15.1 (correctional facility commissaries); N.J. STAT. ANN. § 30:4-16.6 (provision of medications to incarcerated persons with preexisting chronic conditions); N.J. STAT. ANN. § 30:4-82.6 (legislative findings and declarations; Isolated Confinement Restriction Act); N.J. STAT. ANN. § 30:4-82.7 (definitions relating to the use of isolated confinement); N.J. STAT. ANN. § 30:4-82.8 (limiting the use of isolated confinement in correctional facilities); N.J. STAT. ANN. § 30:4-91.3c (definitions); N.J. STAT. ANN. § 30:4-91.3d (wanted person checks); N.J. STAT. ANN. § 30:4-91.15 (program to record and analyze recidivism); N.J. STAT. ANN. § 30:4-92.1 (mandatory workforce skills training program; participants); N.J. STAT. ANN. § 30:4-92.2 (program of mandatory education); N.J. STAT. ANN. § 30:4-92.3 (Vocational Training Pilot Program); N.J. STAT. ANN. § 30:4-123.46 (application of act); N.J. STAT. ANN. § 30:4-123.59 (legal custody and supervision; conditions; signature on agreement; relief; release to state aid residential facility; assistance; disposition of fines); N.J. STAT. ANN. § 30:4-123.100 (awarding of public health emergency credits to inmates; declaration of public health emergency); N.J. STAT. ANN. § 30:4-127 (visitation of certain institutions); N.J. STAT. ANN. § 30:7E-1 (definitions); N.J. STAT. ANN. § 30:7E-2 (inmates of state and county correctional facilities and jails to be charged fees for medical treatment and medicines); N.J. STAT. ANN. § 30:7E-3 (reimbursement of state or county for medical expenses incurred on behalf of inmates covered by health insurance); N.J. STAT. ANN. § 30:8-16.6 (counties; participation; eligibility; placement goals; rules and regulations); N.J. STAT. ANN. § 34:15-37.4 (civilians working directly with inmates or detainees); N.J. STAT. ANN. § 36:2-189 (Corrections Officer Day); N.J. STAT. ANN. § 52:4B-44 (standards to ensure rights of crime victims); N.J. STAT. ANN. § 52:17B-171.13 (state juvenile correctional facility or county juvenile detention center); N.J. STAT. ANN. § 52:18A-78.5a (purposes for the undertaking of projects by the authority); N.J. STAT. ANN. § 52:27EE-28.2 (inspections of State correctional facilities; requirements) N.J. STAT. ANN. § 52:31-24 (responsibility for management of State-owned residential housing and establishment of housing program).

<sup>64</sup> N.J. STAT. ANN. § 2C:29-10. See discussion *infra* regarding penal institutions.

<sup>65</sup> N.J. STAT. ANN. § 30:1B-3.

<sup>66</sup> N.J. STAT. ANN. § 30:1B-8 (transferring eight correctional institutions to the DOC along with “any State institution and satellite facilities heretofore or hereafter established” by the DOC. At the time the statute was enacted, these institutions included New Jersey State Prison; East Jersey State Prison; Bayside State Prison; Garden State Reception and Youth Correctional Facility; Albert C. Wagner Youth Correctional Facility; Edna Mahan Correctional Facility for Women; William H. Fauver Youth Correctional Facility; and the Adult Diagnostic and Treatment Center).



facilities heretofore or hereafter established for any purpose” similar to ones the set forth in the statute.<sup>67</sup>

The *Act Concerning Restrictions on Isolated Confinement in Correctional Facilities*, N.J.S. 30:4-82.7, includes a definition for the term “State correctional facility.” This Act defines a State correctional facility as “a State prison or *other penal institution* or an institution or facility designated by the commissioner as a place of confinement under section 2 of P.L. 1969, c.22 (C.30:4-91.2)”<sup>68</sup> The Legislature has authorized the Commissioner of the Department of Corrections to “designate as a place of confinement any available, suitable, and appropriate institution or facility whether owned by the State or otherwise....”<sup>69</sup>

Finally, a definition for the term “state correctional facility” may be found in the *Act Concerning Wanted Person Checks of Inmates and Suspects*, N.J.S. 30:4-91.3c. For the purposes of this Act, the Legislature has defined “State correctional facility” as “a state prison or *other penal institution* or state-contracted halfway house.”<sup>70</sup>

- *Penal Institution*

The term “penal institution” is found in forty-one statutes.<sup>71</sup> The New Jersey statutes do

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<sup>67</sup> *Id.*

<sup>68</sup> See N.J. STAT. ANN. § 30:4-91.2 (emphasis added).

<sup>69</sup> *Id.* (“The word ‘facility’ shall include private nonprofit community-based residential treatment centers which provide for the care, custody, subsistence, education, training and welfare of inmates....”).

<sup>70</sup> N.J. STAT. ANN. § 30:4-91.3 (emphasis added).

<sup>71</sup> N.J. STAT. ANN. § 2A:153-3 (escaped county prisoner); N.J. STAT. ANN. § 160-10 (fugitives from justice found in this state); N.J. STAT. ANN. § 2A:161A-9 (subordination of procedures on personal searches to procedures of state’s penal institutions); N.J. STAT. ANN. § 2A:167-8 (sentenced individuals granted license to be at large from any penal institution); N.J. STAT. ANN. § 2C:29-10 (electronic communication devices within correctional or detention facilities); N.J. STAT. ANN. § 2C:39-6 (exemptions); N.J. STAT. ANN. § 2C:43-10 (place of imprisonment); N.J. STAT. ANN. § 2C:52-23 (use of expunged records by DOC); N.J. STAT. ANN. § 26:2B-13 (powers of department); N.J. STAT. ANN. § 30:1-2 (Dept. of Human Servs); N.J. STAT. ANN. § 30:3-5 (order of precedence in expenditures); N.J. STAT. ANN. § 30:4-6.1 (prosecutor to be notified of escape from county or State penal institution); N.J. STAT. ANN. § 30:4-82.7 (definitions relating to the use of isolated confinement); N.J. STAT. ANN. § 30:4-91.3a (interim release from a State correctional institution or county penal institution); N.J. STAT. ANN. § 30:4-91.3c (defining state correctional facility as a State prison or other penal institution); N.J. STAT. ANN. § 30:4-116.1 (escape of prisoners from county penal institutions); N.J. STAT. ANN. § 30:4-123.51 (eligibility for parole from county penal institution or State Prison); N.J. STAT. ANN. § 30:4-123.51a (revocation of parole from a person paroled from a county penal institution); N.J. STAT. ANN. § 30:4-123.53a (written notice to prosecutor of anticipated release from county or State penal institution); N.J. STAT. ANN. § 30:4-123.54 (pre-parole reports); N.J. STAT. ANN. § 30:4-123.55 (review of pre-parole reports); N.J. STAT. ANN. § 30:8-13 (compensation of female guards in county penal institutions of the first class); N.J. STAT. ANN. § 30:8-17.1 (keepers or wardens in penal institutions); N.J. STAT. ANN. § 30:8-28.4 (compensation to persons in county penal institutions); N.J. STAT. ANN. § 40A:9-3 (discrimination by reason of age in county or municipal penal institutions); N.J. STAT. ANN. § 40A:9-117.6 (Sheriff’s officers in penal institutions); N.J. STAT. ANN. § 43:1-2 (no pension or subsidy to be paid to any person confined in a penal institution); N.J. STAT. ANN. § 43:7-8 (defining prison officer); N.J. STAT. ANN. § 43:10-18.15 (payments to dependents on behalf of those committed to penal institutions for crimes of moral turpitude); N.J. STAT. ANN. § 43:10-18.64 (payment of benefits to those committed to penal institutions for crimes of moral turpitude); N.J. STAT. ANN. § 43:22.28 (eligibility of benefits to persons actually committed to a penal institution for crimes involving moral turpitude); N.J. STAT. ANN. § 43:21-19 (definitions); N.J. STAT. ANN. § 46:31-6 (goods produced in the penal institutions of this state); N.J. STAT. ANN. § 52:14-11 (discrimination by reason of age exception for guards employed by any penal institution of this state); N.J. STAT. ANN. § 52:18A-19 (schedule for articles to be purchased not affecting purchase or use of products of the labor of persons of

not set forth a specific definition for the term “penal institution.”<sup>72</sup> The absence of a definition necessitates an examination of the common law and the legislative context in which the term is employed to discern its meaning.

Historically, the term “penal institution” did not refer to a specific institution or facility, rather to a place of confinement after a person has been convicted of a crime.<sup>73</sup> Generically, the term has been used to identify both county and state operated facilities. In the 1860s a “county workhouse” was considered a penal institution.<sup>74</sup> By the mid-1900s, however, New Jersey State prisons were also referred to as penal institutions.<sup>75</sup>

Until its repeal in 1979, New Jersey’s parole eligibility statute, N.J.S. 30:4-123.12, contained a definition for the term “penal institution.” This definition included “the New Jersey State Prison and any other State penal or correctional institution in this State to which offenders are sentenced for fixed terms of fixed minimum and maximum terms....”<sup>76</sup> Additionally, penal institutions included “other institutions of like character under the jurisdiction of the United States or of a State or States other than this State.”<sup>77</sup> At the time, the only “fixed-term sentence” permitted in the state prison system was a life sentence.<sup>78</sup> In this context, the reference “State penal or correctional institution” was to state institutions.<sup>79</sup>

Finally, the term “penal institution” appears in New Jersey’s Uniform Criminal Extradition Law.<sup>80</sup> The extradition statute, N.J.S. 2A:160-10 provides, in relevant part, that:

[I]f the executive authority of any other state or district requests the extradition of any person charged in that state with murder, and that person is imprisoned in a

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a penal institution); N.J. STAT. ANN. § 52:25-3 (no impact products of penal institutions); N.J. STAT. ANN. § 52:27B-61 (laws pertaining to purchase or use of labor of incarcerated inmates not affected by statute); N.J. STAT. ANN. § 52:31-12 (products of labor of penal institutions excepted); N.J. STAT. ANN. § 53:1-14 (record of fingerprints of persons confined in penal institutions); N.J. STAT. ANN. § 30:3-4(1) (bond issue for construction of institutions, including penal institutions); N.J. STAT. ANN. § 30:3-5(2) (bond issue for construction of institutions, including penal institutions).

<sup>72</sup> Search conducted using Westlaw (adv:TE(“penal institution” /5 mean! or defin! or is).

<sup>73</sup> *Salley v. Firemen’s & Policemen’s Pension Fund Comm’n*, 124 N.J.L. 79 (Sup. Ct. 1940) (observing that a penal institution is a place of confinement for individuals who have been convicted of crimes - e.g., moral turpitude).

<sup>74</sup> *Bd. of Chosen Freeholders of Hudson Cnty. v. Layton*, 28 N.J.L. 244 (Sup. Ct. 1860) (noting that under a then existing statute New Jersey statute a “workhouse” [was] essentially a penal institution).

<sup>75</sup> *State v. Deegan*, 133 N.J.L. 263, 275 (1945) (recounting that at trial “[t]here was testimony that the defendant had been confined at Annandale, a penal institution.”); *State v. Morris*, 242 N.J. Super. 532 (App. Div. 1990) (noting that the State in its proofs identified “Leesburg State Prison is a large penal institution located in Cumberland County.”). See also *Mahoney v. Parole Bd.*, 10 N.J. (1952) (quoting subsection (c) of N.J.S. 30:4-123.12) (since repealed by L.1979, c. 441, § 27, eff. Apr. 21, 1960); and *Bonilla v. Heil*, 126 N.J. Super. 538, 542 (App. Div. 1974).

<sup>76</sup> *Bonilla v. Heil*, 126 N.J. Super. at 542.

<sup>77</sup> *Id.*

<sup>78</sup> *Id.* at 542.

<sup>79</sup> cf. N.J. STAT. ANN. § 2C:43-10(g); N.J. STAT. ANN. § 2C:43-11; N.J. STAT. ANN. § 30:4-116.1; N.J. STAT. ANN. § 30:4-123.51; N.J. STAT. ANN. § 30:4-123.51a; N.J. STAT. ANN. § 30:123.54(e); N.J. STAT. ANN. § 30:4-123.55(b); N.J. STAT. ANN. § 30:8-28.4(a) (each containing a reference to “county penal institutions”).

<sup>80</sup> N.J. STAT. ANN. §§ 2A:160-6 to -35. The New Jersey Uniform Criminal Extradition Law is based upon the Uniform Criminal Extradition Act. See 11 U.L.A. 61 (1936). *State v. Robbins*, 124 N.J. 282, 290 (1991) (discussing the history and origin of the uniform criminal extradition law).

*penal institution* or jail of this state for a term less than imprisonment for life, the governor of this state may deliver him or her up to the executive authority of the demanding state or district for the purpose of trial in said state or district....<sup>81</sup>

This reference stands as the singular appearance of the term “penal institution,” in the extradition statutes. When given a broad reading, it appears that the term penal institution includes both county and state institutions in which persons are serving less than a life sentence.

In 2021, the DOC published the “Offender and Characteristics Report,” and set forth the total number of inmates in each of New Jersey’s State Correctional Institutions and Satellite Units.<sup>82</sup> Within the enumerated correctional facilities, the Report noted that 239 prisoners were housed at the Bayside Farm complex; 64 inmate were housed at the Jones Farm;<sup>83</sup> and 45 were housed at the East Jersey Camp.<sup>84</sup> Absent from this Report was any reference to persons in the custody of the DOC being housed at a quarry.

### **Youth Correctional Institution**

In 1976, when the DOC was created, it assumed control and supervision of the State’s eight correctional institutions.<sup>85</sup> In addition, the DOC was given authority over “[a]ny State institution and satellite facilities....”<sup>86</sup> For almost twenty years, the DOC’s authority over place of confinement included facilities that housed juvenile offenders.

Male offenders between the ages fifteen and thirty who had not been previously confined to the New Jersey State Prison could qualify for an indeterminate sentence.<sup>87</sup> Although the exact place of confinement was an administrative rather than a judicial decision, only indeterminate terms could be given to the Youth Correctional Institution Complex.<sup>88</sup>

The Youth Correctional Institution Complex was comprised of several facilities. As set forth in N.J.S. 30:4-146, the Youth Correctional Institution Complex still includes references to the Youth Reception and Correctional Center, at Yardville; and the Youth Correctional Institutions at Bordentown and Annandale.<sup>89</sup> Similar to the State prison statute, N.J.S. 30:4-136, the Legislature included a reference to “all new or additional institutions” designated by the

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<sup>81</sup> N.J. STAT. ANN. § 2A:160-10 (emphasis added).

<sup>82</sup> Marcus O. Hicks, Esq., Comm’r, Offender Characteristics Report, Ofc. of Compliance and Strategic Planning \*5 (Jan. 2021).

<sup>83</sup> In November of 2022, the State reassigned the nineteen prisoners housed at this facility to other locations to streamline operations in light of the shrinking prison population. *See* Dana DiFilippo, *State moves inmates out of minimum security prison, as census drops statewide*, N.J. MONITOR, Nov. 29, 2022.

<sup>84</sup> *Id.*

<sup>85</sup> *See* N.J. STAT. ANN. § 30:1B-8 (New Jersey State Prison, East Jersey State Prison, Bayside State Prison, Garden State Reception and Youth Correctional Facility; Albert C. Wagner Youth Correctional Facility; Edna Mahan Correctional Facility for Women; William H. Fauver Correctional Facility; and Adult Diagnostic and Treatment Center, Avenel).

<sup>86</sup> *Id.*

<sup>87</sup> N.J. STAT. ANN. § 30:4-147; *State v. Prewitt*, 127 N.J. Super. 560, 565 (App. Div. 1974).

<sup>88</sup> *State v. Prewitt*, 127 N.J. Super. at 565; *State v. McBride*, 127 N.J. Super. 399, 404 (App. Div. 1974).

<sup>89</sup> N.J. STAT. ANN. § 30:4-146.

appropriate authority where persons sentenced to the Youth Correctional Institution Complex may “be kept, housed or employed.”<sup>90</sup>

On December 15, 1995, the New Jersey Legislature created the Juvenile Justice Commission (“JJC”) in, but not of, the Department of Law and Public Safety.<sup>91</sup> Among the functions, powers, duties and authority of the commission is the “supervision and management of each secure juvenile facility....”<sup>92</sup> The Legislature transferred to the JJC “the custody and care of any juvenile adjudicated delinquent and committed... to the Department of Corrections.....”<sup>93</sup>

Currently, the JJC operates three secure facilities.<sup>94</sup> These facilities include the Juvenile Medium Security Facility (“JMSF”), at Bordentown; the Female Secure Care and Intake Facility (“FSCIF”), at Bordentown; and the New Jersey Training School, at Jamesburg.<sup>95</sup> Absent from the list of facilities operated by the Juvenile Justice Commission is a quarry.

### **Pending Bills**

There are no bills pending that seek to amend the language of N.J.S. 30:4-136 or N.J.S. 30:4-146.

### **Conclusion**

The Commission recommends the modification of N.J.S. 30:4-136 and N.J.S. 30:4-146 to remove the anachronistic references to quarries. Further, the modifications set forth in the Appendix propose changes to clarify and simplify the definitions of State prison and Youth Correctional Institution Complex to accurately reflect the current, and future, places of confinement for persons who are incarcerated.

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<sup>90</sup> *Id. See generally* N.J. STAT. ANN. § 30:4-136 (defining State prison to include “all institutions... where [persons] sentenced to State Prison may from time to time be kept, housed or employed.”).

<sup>91</sup> N.J. STAT. ANN. § 52:17B-170(a).

<sup>92</sup> N.J. STAT. ANN. § 52:17B-171(b)(1).

<sup>93</sup> N.J. STAT. ANN. § 52:17B-176(a)(1).

<sup>94</sup> State of N.J., Dep’t of Law and Public Safety, Juvenile Justice Comm’n Facilities, Secure Facilities, <https://www.njoag.gov/about/divisions-and-offices/juvenile-justice-commission-home/juvenile-justice-commission-facilities/> (last visited Jul. 19, 2023).

<sup>95</sup> *Id. See also* N.J.S. 52:17B-176 (transferring authority over the New Jersey Training School for Boys, to the JJC).

## Appendix

The relevant text of **N.J.S. 30:4-136** and **N.J.S. 30:4-146** including proposed modifications (proposed additions are shown with underlining, proposed deletions with ~~strikethrough~~), follows:

### **N.J.S. 30:4-136. State prison defined**

~~The State Prison shall include the existing prison in Trenton or wherever it may hereafter be located, and all institutions, farms, camps, quarries or grounds designated by the State Board where convicts sentenced to the State Prison may from time to time be kept, housed or employed.~~

References to state prison shall include any institution or facility designated by the Commissioner of the Department of Corrections as a place of confinement pursuant to N.J.S. 30:4-91.2.

### **Comments**

The proposed definition of State prison removes the archaic reference to quarries and the direct reference to New Jersey's original State prison. The proposed incorporation of a cross-reference to N.J.S. 30:4-91.2 introduces language that recognizes the diverse range of institutions and facilities available to the Commissioner of the Department of Corrections to detain persons convicted of a crime and sentenced to a state prison term. Finally, the proposed language is meant to align with original intent of the Legislature – by empowering the Commissioner of the Department of Corrections to designate places of confinement without the necessity of additional legislative action.

### **N.J.S. 30:4-146. Youth correctional institution complex defined**

~~The Youth Correctional Institution Complex shall include the existing Youth Reception and Correctional Center, Yardville, and the Youth Correctional Institutions at Bordentown and Annandale and all new or additional institutions, farms, camps, quarries or grounds designated by the State board, where persons sentenced to the Youth Correctional Institution Complex may, from time to time, be kept, housed or employed.~~

The Youth Correctional Institution Complex shall include all State juvenile facilities and the programs established, or contracted for, by the Juvenile Justice Commission pursuant to N.J.S. 52:17B-170.

### **Comments**

The proposed definition of Youth Correctional Institution Complex removes the archaic reference to quarries and the direct references to specific correctional institutions. The proposed incorporation of a cross-reference to N.J.S. 52:17B-170 introduces language that recognizes the diverse range of institutions and facilities under the control of the JJC. Finally, the proposed language is meant to align with original intent of the Legislature – by empowering the Commissioner of the Department of Corrections to designate places of confinement without the necessity of additional legislative action.

## **For Reference**

### **N.J.S. 30:4-91.2. Designation by commissioner or agent; “facility” defined**

The commissioner or his duly authorized agent, may designate as a place of confinement any available, suitable, and appropriate institution or facility whether owned by the State or otherwise, and may at any time transfer a person from one place of confinement to another.

The word “facility” shall include private nonprofit community-based residential treatment centers which provide for the care, custody, subsistence, education, training and welfare of inmates.

Any such private nonprofit community-based residential treatment center must be certified annually by the commissioner as a secure and appropriately supervised place of confinement.

Credits: L.1969, c. 22, § 2, eff. April 23, 1969. Amended by L.1976, c. 35, § 2, eff. June 15, 1976.

### **N.J.S. 52:17B-170. Juvenile Justice Commission; membership; executive board**

\* \* \*

e. The commission shall have the following powers, duties and responsibilities:

\* \* \*

(4) To enter into contracts and agreements with State, county and municipal governmental agencies and with private entities for the purpose of providing services and sanctions for juveniles adjudicated or charged as delinquent and programs for prevention of juvenile delinquency;

\* \* \*

(7) To assume the custody and care of all juveniles committed by court order, law, classification, regulation or contract to the custody of the commission or transferred to the custody of the commission pursuant to section 8 of P.L.1995, c. 284 (C.52:17B-176);

(8) To manage and operate all State secure juvenile facilities which shall include the New Jersey Training School for Boys created pursuant to R.S.30:1-7 and transferred to the Commissioner of Corrections pursuant to section 8 of P.L.1976, c. 98 (C.30:1B-8) and the Juvenile Medium Security Facility created pursuant to R.S.30:1-7 and both transferred to the commission pursuant to section 8 of P.L.1995, c. 284 (C.52:17B-176) and shall include any other secure juvenile facility established by the commission in the future;

(9) To manage and operate all State juvenile facilities or juvenile programs for juveniles adjudicated delinquent which shall include facilities and programs transferred to the commission pursuant to section 8 of P.L.1995, c. 284 (C.52:17B-176) or established or contracted for in the future by the commission;

\* \* \*

(18) To receive and classify juveniles committed to the custody of the commission;

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