



## **NEW JERSEY LAW REVISION COMMISSION**

### **Revised Final Report Juvenile Justice – State Home for Boys and Girls as used in N.J.S. 30:4-85**

**April 08, 2024**

The work of the New Jersey Law Revision Commission is only a recommendation until enacted.

Please consult the New Jersey statutes to determine the law of the State.

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## Project Summary

In December 1995, the New Jersey Legislature established the Juvenile Justice Commission (“JJC”).<sup>1</sup> The JJC was created to provide “centralized authority for planning, policy development and service provision in the juvenile justice system....”<sup>2</sup> Among the JJC’s many responsibilities are the “custody and care of juveniles committed to and otherwise placed under its jurisdiction.”<sup>3</sup>

On June 28, 1867, the State of New Jersey opened its State Home for Boys.<sup>4</sup> This facility was established as a home for troubled youth.<sup>5</sup> The State Home for Boys is now known as the “New Jersey Training School,” or colloquially as “Jamesburg,” and with approximately 200 male juveniles is JJC’s largest facility.<sup>6</sup>

Several statutes contain references to the State Home for Boys and the State Home for Girls.<sup>7</sup> Neither of these designations is utilized by the JJC, nor are they referenced or defined in any other statute. Such statutory references appear to be outdated.<sup>8</sup>

The Commission recommends the removal of these anachronistic terms from the general and permanent statutory law.<sup>9</sup>

## Statutes Considered

### **N.J.S. 30:4-85. Transfers between correctional institutions; transfer to State prison; authority of commissioner; contracts with county institutions**

Any inmate of any correctional institution as classified in section 30:1-7 of this Title may be transferred to any other such correctional institution by order of the

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<sup>1</sup> N.J. STAT. ANN. § 52:17B-169 (West 2023).

<sup>2</sup> N.J. STAT. ANN. §§ 52:17B-169 – 52:17b-180. DEPT. OF LAW & PUBLIC SAFETY, OFF. OF THE ATT’Y GEN., HISTORY OF THE JJC, [https://www.nj.gov/oag/jjc/aboutus\\_history.html#:~:text=History](https://www.nj.gov/oag/jjc/aboutus_history.html#:~:text=History) (last visited July 08, 2023).

<sup>3</sup> N.J. STAT. ANN. § 52:17B-176. *See also* DEPT. OF LAW & PUBLIC SAFETY, OFF. OF THE ATT’Y GEN., HISTORY OF THE JJC, [https://www.nj.gov/oag/jjc/aboutus\\_history.html#:~:text=History](https://www.nj.gov/oag/jjc/aboutus_history.html#:~:text=History) (last visited July 08, 2023).

<sup>4</sup> N.J. STAT. ANN. § 52:17B-176. *See also* DEPT. OF LAW & PUBLIC SAFETY, OFF. OF THE ATT’Y GEN., JJC SECURE CARE FACILITIES, <https://www.nj.gov/oag/jjc/secure.htm> (last visited July 08, 2023); Seth Mandel, *Training School memories on display at Lakeview*, centraljersey.com archive (Jan. 26, 2006), <https://archive.centraljersey.com/2006/01/26/training> (last visited July 08, 2023).

<sup>5</sup> DEPT. OF LAW & PUBLIC SAFETY, OFF. OF THE ATT’Y GEN., JJC SECURE CARE FACILITIES, <https://www.nj.gov/oag/jjc/secure.htm> (last visited July 08, 2023).

<sup>6</sup> *Id.*

<sup>7</sup> N.J. STAT. ANN. § 30:4-85 (prohibiting the transfer of persons from the State Home for Boys or the State Home for Girls to State Prison); N.J. STAT. ANN. § 48:12-109 (authorizing certain officers from the State Home for Boys and the State Home for girls free transportation over all railroads operating passenger service in the State); N.J. STAT. ANN. § 30:3-5(2) (Acts Saved from Repeal) (appropriating money via L.1930, c. 202, § 6, p. 961, for the State Home for Boys and the State Home for Girls); and N.J. STAT. ANN. § 30:3-6(1) (Acts Saved from Repeal) (appropriating money via L.1933, c. 377, § 1, p. 1061, for the State Home for Boys and the State Home for Girls).

<sup>8</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....”).

<sup>9</sup> N.J. STAT. ANN. § 1:12A-89(a) (providing that is the duty to of the N.J. Law Revision Comm’n to review the general and permanent statutory law “for the purpose of discovery defects and anachronisms... and to... submit to the Legislature... legislative bills designed to [ r]emedy the defects....”).

commissioner directing such transfer, either upon the application of the chief executive officer or upon the initiative of the commissioner.

No inmate of the State Home for Boys or the State Home for Girls shall be transferred to the State Prison.

Any inmate of the State Home for Boys of the age of 15 years may be transferred from such home to the reformatory at Annandale or, if over the age of 16 years, to the reformatory at Bordentown, and any inmate of the State Home for Girls, over the age of 16 years, may be transferred from such home to the women's reformatory at Clinton.

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### **N.J.S. 48:12-109. State officials and employees entitled to free transportation**

The following persons, during their respective terms of office or employment, shall pass and repass, free of charge, in regular coach service, over all railroads operating such passenger service, in this State within the borders of this State:

The... chief parole officer of the New Jersey State Home for Boys, ... parole officer of the New Jersey State Home for Girls . . . .

### **Background**

The State of New Jersey has maintained a long-standing commitment to juvenile justice. In January 1864, Governor Joel Parker advised the Legislature that “[s]ome place other than State Prison should be provided for the incarceration of youth.”<sup>10</sup> The Governor noted that, “[t]he object of imprisonment is to reform as well as punish.”<sup>11</sup> He reasoned that “the state owes it to the youthful criminal to place him in circumstances that will tend to soften his pliant nature rather than render him more obdurate.”<sup>12</sup> That year, the Governor’s remarks were referred to a joint committee of both legislative houses for their consideration.<sup>13</sup>

Over the next six years, the New Jersey Legislature sought to establish facilities for young men and women convicted of criminal acts. On April 06, 1865, the New Jersey Legislature established the “State Reform School for Juvenile Offenders.”<sup>14</sup> Almost five years later, on April 04, 1870, the Legislature created a facility for the young women of New Jersey called the “State Industrial School for Girls.”<sup>15</sup> For the next thirty years, the facilities would operate under these monikers.

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<sup>10</sup> Report of Comm’rs on Reform of Juvenile Offenders, \*3 (1865) (quoting Gov. Joel Parker’s annual message to the Legislature (Jan. 1864)).

<sup>11</sup> *Id.*

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

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

<sup>14</sup> L.1900, c. 93, § 1, p. 176.

<sup>15</sup> L.1900, c. 190, § 1, p. 481.

During the Legislative session of 1900, the Legislature renamed the institutions for male and female juvenile offenders. The State Reform School for Juvenile Offenders, located at Jamesburg, would become the “State Home for Boys.”<sup>16</sup> The State Industrial School for Girls would become the “State Home for Girls.”<sup>17</sup> These facilities continued to bear these legislatively ascribed names until the 1970s.

After nearly seventy years, the State Home for Boys underwent another name change. In 1970, this facility was renamed the “Training School for Boys.”<sup>18</sup> Then, on October 01, 1974, after 108 years as all male institution, the Training School for Boys became a coeducational institution.<sup>19</sup> “This consolidation became necessary upon the closing of the Training School for Girls, Trenton.”<sup>20</sup>

In 1976, the Legislature established the Department of Corrections (“DOC”) in the Executive Branch of the State Government.<sup>21</sup> Currently, the DOC “provide[s] for the custody, care, discipline, training and treatment of adult offenders committed to State correctional institutions or on parole....”<sup>22</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>23</sup>

When the DOC was created, it assumed control and supervision of the State’s eight correctional institutions.<sup>24</sup> In addition, the DOC was given authority over “[a]ny State institution and satellite facilities....”<sup>25</sup> For almost twenty years the DOC’s authority would include facilities in which juvenile offenders were housed.

On December 15, 1995, the New Jersey Legislature created the Juvenile Justice Commission in, but not of, the Department of Law and Public Safety.<sup>26</sup> Among the functions, powers, duties and authority of the commission is the “supervision and management of each secure juvenile facility....”<sup>27</sup> The Legislature transferred to the JJC “the custody and care of any juvenile adjudicated delinquent and committed... to the Department of Corrections....”<sup>28</sup> In addition,

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<sup>16</sup> L.1900, c. 93, § 1, p. 176.

<sup>17</sup> L.1900, c. 190, § 1, p. 481.

<sup>18</sup> NJSL Staff, *The Advance and the New Jersey State Reform School* (Feb. 3, 2023) (<https://www.njstatelib.org/the-advance-and-the-new-jersey-state-reform-school/>) (last visited Jul. 09, 2023).

<sup>19</sup> 1974 TRAINING SCHOOL, ANN. REP. 1.

<sup>20</sup> *Id.*

<sup>21</sup> N.J. STAT. ANN. § 30:1B-2 (West 2023). *See* N.J. STAT. ANN. § 30:1B-8 (West 2023) (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>22</sup> *Id.*

<sup>23</sup> N.J. STAT. ANN. § 30:1B-2(a)(2).

<sup>24</sup> N.J. STAT. ANN. § 30:1B-8 (West 2023) (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>25</sup> *Id.*

<sup>26</sup> N.J. STAT. ANN. § 52:17B-170(a).

<sup>27</sup> N.J. STAT. ANN. § 52:17B-171(b)(1).

<sup>28</sup> N.J. STAT. ANN. § 52:17B-176(a)(1).

N.J.S. 52:17B-176 specifically transferred authority over the New Jersey Training School for Boys, to the JJC.<sup>29</sup>

Presently, the JJC operates three secure facilities.<sup>30</sup> These facilities include the Juvenile Medium Security Facility, the Female Secure Care and Intake Facility, and the New Jersey Training School – Jamesburg.<sup>31</sup>

### **Preliminary Outreach**

In gathering preliminary information on this subject, Staff had the opportunity to speak with counsel to the JJC.<sup>32</sup> Christina Broderick, Chief of Legal and Regulatory Affairs, confirmed that references to the State Home for Boys and State Home for Girls, are not appropriate because these terms are no longer used by the JJC.<sup>33</sup>

### **Outreach**

In connection with this Report, Staff sought comments from knowledgeable individuals and organizations including:

The American Civil Liberties Union – New Jersey; Association of Criminal Defense Lawyers; Association of Criminal Defense Lawyers; Office of the Attorney General – Corrections and State Police Section; New Jersey Department of Corrections; criminal defense attorneys; New Jersey County Warden’s Association; New Jersey State Association of Chiefs of Police; New Jersey Office of the Public Defender; New Jersey State Bar Association; New Jersey State Parole Board; New Jersey Association on Correction; New Jersey Prison Watch; American Friends Service Committee; Prison Fellowship; New Jersey Institute for Social Justice; Juvenile Justice Commission; Lieutenant Governor of New Jersey – New Jersey Secretary of State; Department of Community Affairs; Office of the Comptroller; Division of Taxation; New Jersey State Librarian; Department of Education; Department of Agriculture; Department of Environmental Protection; Department of Banking and Insurance; Department of Human Services; New Jersey State Geologist; Office of the Corrections Ombudsperson; Department of Children and Families; Department of Labor and Workforce Development; North Jersey District Water Supply Commission; Board of Public Utilities; Department of Transportation; Civil Service Commission; Public Records Office; South Jersey Port Corporation; Vocational Rehabilitation Services; and New Jersey Legislature.

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<sup>29</sup> N.J. STAT. ANN. § 52:17B-176(a)(2).

<sup>30</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>31</sup> *Id.*

<sup>32</sup> Tel. conf. with Christina Broderick, Chief of Legal & Regul. Aff. at the N.J. Juvenile Just. Comm’n (Jul. 13, 2023).

<sup>33</sup> *Id.*

### *Support*

The Juvenile Justice Commission expressed its support for the Commission’s proposed modifications to N.J.S. 30:4-85. The JJC stated that, “[b]y revising the statutory references to specific JJC institutions with general references to the JJC, the NJLRC’s proposal creates a dynamic statute that will not need to be updated as facilities are replaced or renamed.”<sup>34</sup> Additionally, the JJC supports the Commission’s proposal to remove the term “inmate” from the statute.<sup>35</sup>

### *Clarification*

The JJC recommended that the Commission’s proposed reference to the “Director of Juvenile Parole and Transition Services” in N.J.S. 48:12-109 be replaced with the present title of the position - Juvenile Justice Commission, Director of Parole.<sup>36</sup>

### *Opposition*

The Commission has not received any opposition to the proposed modifications.

## **Age of Transfer**

During the Commission’s March 2024 meeting, the Commissioners discussed the criteria for transferring incarcerated males and females to adult correctional facilities based on their respective ages as set forth in N.J.S. 30:4-85.<sup>37</sup> The Commission noted that a male prisoner may be transferred to an adult facility as early as the age of fifteen; but female prisoners were not eligible for such a transfer until the age of sixteen.<sup>38</sup> The Commission sought clarification regarding the divergence in ages between these two populations.

### *Legislative History*

The statute addressing the transfer of individuals between correctional institutions was enacted in 1918.<sup>39</sup> As enacted, the statute provided that, “[a]ny inmate of any correctional institution as classified by this act may be transferred to any other such correctional institution, by order of the commissioner directing such transfer...”<sup>40</sup> The statute contained the requirement that “transfers shall be made in accordance with the formally adopted rules of the State Board.”<sup>41</sup> These

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<sup>34</sup> Memorandum from Dr. Jennifer LeBaron, Exec. Dir., Juvenile Justice Comm’n, to Samuel M. Silver, Dep. Dir., N.J. Law Rev. Comm’n, \*1 (Feb. 15, 2023) (on file with the NJLRC) [hereinafter LeBaron Memorandum].

<sup>35</sup> *Id.*

<sup>36</sup> *Id.*

<sup>37</sup> N.J. LAW REVISION COMM’N, ‘Juvenile Justice – State Home for Boys and Girls as used in N.J.S. 30:4-85,’ *Minutes of NJLRC Meeting 21 Mar. 2024*, at \*- , held remotely, [hereinafter Mar. 21, 2024, Minutes].

<sup>38</sup> N.J. STAT. ANN. § 30:4-85.

<sup>39</sup> L. 1918, c.147, § 213, p. 357.

<sup>40</sup> *Id.*

<sup>41</sup> *Id.* at § 214.

rules were not set forth in the statute. Although the statute was amended in 1919,<sup>42</sup> references to a prisoners age were not added until 1931.<sup>43</sup>

In 1931, the Legislature again amended the act “concerning the charitable, correctional, reformatory and penal institutions, boards and commissions, located and conducted in this state, which are supported in whole or in part from county, municipal, or State funds.”<sup>44</sup> The amended statute prohibited the transfer of residents of the State Home for Boys or Girls from being transferred to the New Jersey State Prison.<sup>45</sup> It did, however, provide that young men and women, **both aged 16**, could be transferred to other institutions.<sup>46</sup> The statute permitted young men to be transferred to either the Reformatory at Annandale or Rahway; and young women could be transferred to The Women’s Reformatory at Clinton.<sup>47</sup> A subsequent statutory amendment in 1948 did not disturb the portion of the statute regarding the age of transfer.<sup>48</sup>

In 1957, the Legislature recognized the challenges posed by the wide age range of incarcerated youth residing in the State Home for Boys and the State Home for Girls.<sup>49</sup> In an attempt to ameliorate these issues, the Legislature amended N.J.S. 30:4-85 to change the age at which young men could be transferred between State correctional institutions.<sup>50</sup> Senate Bill 235 provided, in relevant part, that individuals residing in the State Home for Boys could be transferred to the reformatory at Annandale at age fifteen.<sup>51</sup> The Legislature did not, however, alter the balance of the transfer ages in this statutory section.<sup>52</sup>

The Legislature reasoned that “the [revised] age groupings... [would] result in a better classification of offenders, especially among the younger groups and permit rehabilitation and training programs consistent with the new age groupings.”<sup>53</sup> Senator Forbes stated that, [l]owering the age at which boys may be transferred from Jamesburg to Annandale Reformatory will allow Jamesburg to conduct a program of training and education aimed primarily at the youngsters age 10 to 14.”<sup>54</sup> This modification was justified because, “[m]any boys of 15 and 16 [found] such a program [to be] “childish,” and their attitudes and rebellious behavior adversely affect[ed] the

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<sup>42</sup> L. 1919, c. 96, § 2.

<sup>43</sup> L. 1931, c. 96, § 1.

<sup>44</sup> *Id.*

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

<sup>46</sup> *Id.*

<sup>47</sup> *Id.*

<sup>48</sup> L. 1948, c. 203, § 1.

<sup>49</sup> L. 1957, c. 93, § 1. Sponsor’s Statement, S.B. 235, 128th Leg., 1957 Sess. (Apr. 29, 1957), later enacted as L. 1957, c. 13, eff. July 21, 1957.

<sup>50</sup> L. 1957, c. 93, § 1.

<sup>51</sup> *Id.*

<sup>52</sup> *Id.* (noting that the receiving facility for sixteen year old males was amended from the reformatory at Rahway to the reformatory at Bordentown).

<sup>53</sup> *Id.* Sponsor’s Statement, S.B. 235, 128th Leg., 1957 Sess. (Apr. 29, 1957), later enacted as L. 1957, c. 13, eff. July 21, 1957.

<sup>54</sup> *Id.*

rehabilitation of the younger group.<sup>55</sup> On June 21, 1957, S235 was enacted and has remained the law for the past sixty-seven years.

### **Additional Outreach**

In its current form, N.J.S. 30:4-85 delineates the age at which the Department of Corrections can accept an incarcerated individual from a JJC facility. Under certain circumstances, including when the youth has reached the age of eighteen, the JJC may initiate a transfer to the DOC.<sup>56</sup> When a transfer to the DOC is initiated, it is done without regard to gender-based age delimiters.<sup>57</sup>

If the Legislature were to consider modifying the age of transfer set forth in N.J.S. 30:4-85, the JJC might recommend that the statutory age be raised to eighteen years of age, or higher.<sup>58</sup> Advising against the elimination of the age of transfer, the JJC underscores that its incorporation within the statute establishes a minimum age criterion for such transfers.<sup>59</sup> Conversely, the absence of a statutory age for transfer would relinquish such determinations entirely to the discretion of the transferring and receiving entities.<sup>60</sup>

### **Pending Bills**

There are no bills pending that seek to amend the language of N.J.S. 30:4-85; N.J.S. 48:12-109; N.J.S. 30:3-5(2); or N.J.S. 30:3-6(1) to remove references to the New Jersey Home for Boys and the New Jersey Home for Girls.

### **Conclusion**

The Commission recommends the modification of the New Jersey statutes to remove the anachronistic references to the “State Home for Boys” and “State Home for Girls” and replacing these references with a reference to facilities and programs established by the Juvenile Justice Commission.

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<sup>55</sup> *Id.*

<sup>56</sup> Tel. conf. with Christina Broderick, Chief of Legal & Regul. Aff. at the N.J. Juvenile Just. Comm’n (Mar. 22, 2024); e-mail from Christina Broderick to Samuel M. Silver, Dep. Dir., N.J. Law Revision Comm’n (Mar. 27, 2024, 02:28 p.m. EST), (on file with the NJLRC).

<sup>57</sup> *Id.* See L. 1931, c. 96, § 1 (setting the age of transfer for both young men and women at sixteen).

<sup>58</sup> *Id.*

<sup>59</sup> *Id.*

<sup>60</sup> *Id.*



## Appendix

The proposed modifications to N.J.S. 30:4-85 and N.J.S. 48:12-109 are presented with underlining for inserted language, and ~~strikethrough~~ for deletions.

### **N.J.S. 30:4-85.<sup>61</sup> Transfers between correctional institutions; transfer to State prison; authority of commissioner; contracts with county institutions**

(a) Any ~~inmate~~ person who is incarcerated<sup>62</sup> ~~of in~~ any correctional institution as classified in section 30:1-7<sup>63</sup> of this Title may be transferred to any other such correctional institution by order of the commissioner directing such transfer, either upon the application of the chief executive officer or upon the initiative of the commissioner.<sup>64</sup>

(b) Except as provided in this section and N.J.S. 2A:4A-26.1(f)<sup>65</sup> No inmate no person who is incarcerated in of the State Home for Boys or the State Home for Girls a facility operated by the Juvenile Justice Commission<sup>66</sup> pursuant to N.J.S. 52:17B-170<sup>67</sup> shall be transferred to the State

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<sup>61</sup> See *Ex parte Hodge*, 17 N.J. Super. 198 (Co. 1951), *aff'd*, 24 N.J. Super. 564 (App. Div. 1953) (finding this section is “valid and constitutional.”). See also *Ex parte White*, 10 N.J. Super. 600 (Co. 1950).

<sup>62</sup> See generally SAMUEL M. SILVER, DEP. DIR., N.J. LAW REVISION COMM’N, FINAL REPORT REGARDING THE USE OF THE TERM ‘INMATE’ IN THE NEW JERSEY STATUTES (June 16, 2022).

<sup>63</sup> See N.J. STAT. ANN. § 30:1-7 (enumerating a list of the long-term care facilities, institutions, and psychiatric facilities of this State and including any facilities established after the enactment of the statute for a similar purpose). *But see* N.J. STAT. ANN. § 52:17B-176 (providing that N.J.S 30:1-7 has been used to create correctional facilities such as the Juvenile Medium Security Facility).

<sup>64</sup> See N.J. STAT. ANN. § 30:4-91.1 (authorizing and empowering the Commissioner of the Department of Corrections to transfer an inmate to an institution or facility more appropriate for their needs and welfare, or that of other inmates or for the security of the institution and to designate the place of confinement to which an inmate shall be transferred to serve their sentence).

<sup>65</sup> N.J. STAT. ANN. § 2A:4A-26.1(f)(1)(a)-(b) (providing that where jurisdiction over the juvenile is waived to the Law Division, Criminal Part of the N.J. Superior Court there is a presumption that the juvenile will serve any custodial sentence in a State secure facility until age twenty-one unless they pose a threat to the public safety, or the juvenile does not consent to remain in such a State juvenile facility).

<sup>66</sup> See S.B. 2423 (identical to A.B. 3678), 221st Leg., 2024 Sess. (Jan. 29, 2024) (proposing to rename the Juvenile Justice Commission, the Youth Justice Commission).

<sup>67</sup> The Juvenile Justice Commission is authorized to manage and operate all *State secure juvenile facilities* pursuant to N.J. STAT. ANN. § 52:17B-170(e)(8). These facilities include “the New Jersey Training School for Boys[,]... the Juvenile Medium Security Facility and shall include any other secure juvenile facility established by the commission in the future....” Additionally, the JJC manages “all *State juvenile facilities* or juvenile programs for juveniles adjudicated delinquent which shall include facilities and programs transferred... or established or contracted for in the future by the commission....”

See also N.J. STAT. ANN. § 2A:4A-26.1(c)(2)(h), (f)(1)(a)-(b) (referencing State juvenile facility operated by the Juvenile Justice Commission in the context of juvenile waiver); N.J. STAT. ANN. § 2A:4A-44(c)(1)-(2) (enumerating that: (1) juveniles age eleven or under shall not be committed to a State juvenile facility unless adjudicated delinquent for arson or a crime of the first or second degree, or (2) juveniles who are developmentally disabled shall not be committed to a State juvenile facility); N.J. STAT. ANN. § 2C:12-1(h) (elevating a simple assault to aggravated assault if upon an officer of a State juvenile facility); N.J. STAT. ANN. § 2C:12-13 (throwing bodily fluids at State juvenile facility employee performing their duties is aggravated assault); N.J. STAT. ANN. § 2C:44-5 (running term of imprisonment for assault upon employee of State juvenile facility consecutive to term of imprisonment currently being served); N.J. STAT. ANN. § 52:17B-170 (vesting the JJC with the power to manage and operate “all State juvenile facilities... for juveniles adjudicated delinquent which shall include facilities and programs... established... in the future by the commission.”); N.J. STAT. ANN. § 52:17B-174 (authorizing the JJC to

Prison any facility specified in N.J.S. 30:1B-8<sup>68</sup> or any institution designated by the Commissioner of the Department of Corrections as a place of confinement for adult offenders pursuant to N.J.S. 30:4-91.2.<sup>69</sup>

(c) Any inmate person who is incarcerated in a facility [for males]<sup>70</sup> that is operated by the Juvenile Justice Commission pursuant to N.J.S. 52:17B-170<sup>71</sup> of the State Home for Boys of the age of and is [15] [16]<sup>72</sup> years of age may be transferred<sup>73</sup> from such home to this facility to the reformatory at Annandale<sup>74</sup> any institution or facility designated by the Commissioner of the Department of Corrections as an available, suitable, and appropriate place of confinement pursuant to N.J.S. 30:4-91.2.<sup>75</sup> or, if over the age of 16 years, to the reformatory at Bordentown,<sup>76</sup> and any

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employ “juvenile corrections officers to staff each *State secure juvenile facility* and to provide security for other *State juvenile facilities*...”); and N.J. STAT. ANN. § 52:17B-175 (services provided by DOC notwithstanding JJC responsibility for *State secure juvenile facilities* and *State juvenile facilities*). See also N.J. Rules of Court 5:22-4(b) (enumerating presumption that juvenile subject to waiver pursuant to N.J.S. 2A:4A-26.1(c)(2) shall serve any custodial sentence in a State juvenile facility until age of twenty-one).

<sup>68</sup> N.J. STAT. ANN. § 30:1B-8 (setting forth a list of adult correctional institutions transferred from the Dep’t of Inst. & Agencies to the Dep’t of Corr. and providing that all future facilities be assigned, maintained and operated by the Dep’t of Corr.).

<sup>69</sup> N.J. STAT. ANN. § 30:4-91.2 (vesting the commissioner with the authority to designate places of confinement and transfer a person from one place of confinement to another).

<sup>70</sup> See *supra* notes 56, 57 and “Additional Outreach” p. 8. **Staff seeks the Commission’s direction regarding the bracketed language.** The elimination of the bracketed language would also eliminate the gender distinction set forth in the statute. Such a modification would not, however, ameliorate the “age of transfer questions” raised by the Commission.

<sup>71</sup> See *supra* note 67 and accompanying text.

<sup>72</sup> See discussion *supra* pp. 6-8. The decision of the Legislature, in 1957, to amend the age at which an individual may be transferred between correctional facilities was a policy decision designed to permit rehabilitation and training programs consistent with the new age groupings. Similarly, the modification of the transfer age – even back to the original ages set forth in the 1931 statute (L. 1931, c. 96, § 1) – would appear to be a policy decision best left to the Legislature in the first instance.

<sup>73</sup> See N.J. STAT. ANN. § 52:17B-17-170(e)(8), (9) (empowering the Commissioner with the power to “manage and operating all State secure juvenile facilities” and all State Juvenile facilities ...”). See also N.J. STAT. ANN. § 52:17B-171(b)(1), (2) (vesting the executive director with the responsibility for the “supervision and management of each secure juvenile facility, juvenile facility and program operated by the commission; and “the immediate supervision of the work of the commission and the day to day exercise and performance of the commission’s functions, powers, duties and authority.”). See N.J. STAT. ANN. § 52:17B-171(b)(18) (authorizing the Commission to “receive and classify juveniles committed to the custody of the commission....”).

<sup>74</sup> Construction of the Mountainview Youth Correctional Facility began in 1926 and the Juvenile facility, originally named “Annandale Farms” opened in 1929. See P.L.2019, c.329 and N.J. STAT. ANN. § 30:1B-8 (noting on August 1, 2020, Governor Murphy signed a bill into law that changed the name of Mountainview Youth Correctional Facility to the William H. Fauver Youth Correctional Facility). *But see* Press Release, Governor Phil Murphy, *Governor Murphy Announces Closure of Edna Mahan Correctional Facility Full Minimum Units* (Nov. 01, 20203) (on file with the NJLRC) (noting that the Edna Mahan Satellite Unit is located on the grounds of the former William H. Fauver Youth Correctional Facility until a new facility can be constructed).

<sup>75</sup> LeBaron Memorandum at \*1 (observing that the NJLRC’s proposed modifications retain the names of specific DOC facilities and “recommen[ing] that such references be replaced with more general language like that used for the JJC; however, the JJC leaves that to the discretion of the DOC.”). **Staff seeks the Commission’s guidance regarding the addition of the bracketed and boldfaced language to replace the current reference.**

<sup>76</sup> The reformatory at Bordentown became the Albert C. Wagner Youth Correctional Facility. See Press Release, New Jersey Department of Corrections to Consolidate Two Youth Correctional Facilities (Oct. 10, 2019) (on file with the author) (announcing the closing of the main building of the Wagner facility and the transfer of individuals to the Garden State Youth Correctional Facility).

~~inmate of the State Home for Girls, over the age of 16 years, may be transferred from such home to the women's reformatory at Clinton.~~

(d) Any person who is incarcerated in a facility for females that is operated by the Juvenile Justice Commission pursuant to N.J.S. 52:17B-170<sup>77</sup> and is 16 years of age or older, may be transferred to any institution or facility designated by the Commissioner of the Department of Corrections as an available, suitable, and appropriate place of confinement pursuant to N.J.S. 30:4-91.2.<sup>78</sup>

~~(e) Any inmate of person who is incarcerated in~~ a correctional institution for males, as classified in section 30:1-7 of this Title, of the age of 18 years, may be transferred to the State Prison if it shall appear, to the satisfaction of the commissioner after recommendation by a special classification review board appointed by the State board from among members of the department central office staff, that such ~~inmate~~ person cannot properly be confined in such institution and that ~~his~~ the person's transfer will operate for the general benefit and welfare of the ~~inmate~~ population of the persons who are incarcerated in the institution from which ~~he~~ the person is to be transferred.

(f) The commissioner may also contract, under the direction of the State board and in behalf of any institution where an inmate person to be transferred may be, with the various governing bodies of counties in this State for the amount to be paid for maintenance of inmates persons of correctional institutions to be maintained in such county institutions, after transfer thereto by order of the commissioner, for such amounts as may be approved by the State House Commission, and such payments shall be taken from and paid out of the appropriation made annually for the maintenance of such person or persons in the State institution from whence he the person is or shall be transferred, and the commissioner shall have power to make such transfer in such cases as in the case of other transfers provided for in this section. Such transfers shall be made in accordance with the formally adopted rules of the State board.

(g) Persons transferred shall be subject to rules, regulations and discipline of the institution in which they are confined, except in so far as they conflict with the rules and regulations of the State board.

**Credits:** Amended by L.1948, c. 203, § 1, eff. July 2, 1948; L.1957, c. 93, § 1, eff. July 21, 1957.

#### Comments

Consistent with contemporary drafting practices, the undesignated statutory paragraphs have been revised to provide each distinct provision with a letter designation from (a) through (g) to promote accessibility and readability.

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<sup>77</sup> See *supra* note 67 and accompanying text.

<sup>78</sup> LeBaron Memorandum at \*1 (observing that the NJLRC's proposed modifications retain the names of specific DOC facilities and "recommend[ing] that such references be replaced with more general language like that used for the JJC; however, the JJC leaves that to the discretion of the DOC."). **Staff seeks the Commission's guidance regarding the addition of the bracketed and boldfaced language to replace the current reference.**

The Commission previously recommended the removal of the pejorative term “inmate” from the New Jersey statutes.<sup>79</sup> The Commission’s recommendation to eliminate the pejorative term “inmate” is reflected throughout the statute.

*Subsection (a)*

The proposed language in this subsection removes the references to the pejorative term inmate and replaces each with the term “person who is incarcerated.”

*Subsection (b)*

The language in this proposed subsection removes the references to the pejorative term inmate and replaces them with the term “person who is incarcerated.” In addition, the anachronistic references to the State Home for Boys and the State Home for Girls have been replaced with a reference to the corresponding facilities under the purview of the Juvenile Justice Commission.

*Subsection (c)*

The pejorative use of the term inmate has been eliminated and replaced with the term “person who is incarcerated.” Additional language has been proposed to distinguish persons who are incarcerated in facilities operated by the Juvenile Justice Commission for males, as opposed to those facilities used to house females who are incarcerated in similar facilities. The anachronistic references to the State Home for Boys and the State Home for Girls have been replaced with a reference to facilities that are under the purview of the Juvenile Justice Commission.

These proposed modifications acknowledge the possibility of correctional facilities being replaced or renamed over time, thereby obviating the necessity for a statutory amendment each time a facility undergoes closure or a change in name. References to the Annandale and Bordentown reformatories have therefore been removed and substituted with a general reference to any institution or facility designated by the Commissioner of the Department of Corrections. This option also includes a cross-reference to N.J.S. 30:4-91.2 and incorporates statutory language granting the Commissioner the authority to designate any available, suitable, and appropriate institution or facility as a place of confinement. The cross-reference to N.J.S. 30:4-91.2 also acknowledges the Commissioner’s legislative authority to transfer a person from one place of confinement to another.

**The proposed draft includes references, in brackets, to transfer ages of fifteen and sixteen. Staff notes that elevating the statutory transfer age to sixteen would deviate from the legislature's original intent in reducing the age to fifteen initially. The JJC, however, has indicated that if the Legislature to consider modifying the age of transfer, they might recommend that the age be increased to eighteen, or higher. Staff seeks the Commission's guidance regarding whether modify the age of transfer, or simply to bring this issue to the attention of the Legislature so that they may address this issue.**

**If the Commission determines that the statutory age of transfer for both male and females should be the same, then Staff would seek the Commission’s guidance on one additional issue. If the age of transfer is the same for males and females in JJC facilities, then the statute may be clarified by eliminating the statutory gender references.**

The removal of a direct reference to particular correctional facilities and the inclusion of language requiring that a person be transferred to an “available, suitable, and appropriate place of confinement” rendered the reference to persons aged sixteen and incarcerated superfluous.

Finally, the provision regarding the transfer of females from youth correctional facilities is now presented in a proposed and distinct subsection, identified as (d).

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<sup>79</sup> See *supra* note 62.

*Subsection (d)*

These proposed modifications acknowledge the possibility of correctional facilities being replaced or renamed over time, thereby obviating the necessity for a statutory amendment each time a facility undergoes closure or a change in name. The reference to the Edna Mahan Correctional Facility for Women has been removed and substituted with a general reference to any institution or facility designated by the Commissioner of the Department of Corrections. In the interest of parallel statutory construction, this option, also includes a cross-reference to N.J.S. 30:4-91.2 and incorporates statutory language granting the Commissioner the authority to designate any available, suitable, and appropriate institution or facility as a place of confinement. The cross-reference to N.J.S. 30:4-91.2 also acknowledges the Commissioner's legislative authority to transfer a person from one place of confinement to another.

*Subsections (e) through (g)*

The proposed language in these subsections removes the references to the pejorative term inmate and replaces them with the term "person who is incarcerated."

*Authority of the Commissioner*

The Legislature has granted the commissioner extensive discretionary authority to make decisions on all policy matters and oversee the administration of penal institutions.<sup>80</sup> The Commissioner is authorized to designate places of confinement for individuals who have received custodial sentences<sup>81</sup> and transfer a person from one institution to another.<sup>82</sup>

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<sup>80</sup> N.J. STAT. ANN. § 30:1B-6(g).

<sup>81</sup> N.J. STAT. ANN. § 30:4-91.1 (transfer to more appropriate institution or facility).

<sup>82</sup> N.J. STAT. ANN. § 30:4-85 (transfers between correctional institutions). *See Blyther N.J. Dep't Corr.*, 322 N.J. Super. 56 (App. Div. 1999) (holding that assignment to Security Threat Group Management Unit (SGTMU) did not require due process procedural safeguards applicable to prison disciplinary hearings). *Rocca v. Groomes*, 144 N.J. Super. 213 (App. Div. 1976) (inmate transfer to maximum security properly effected); *State v. Spinks*, 66 N.J. 568 (1975) (youthful offenders may be administratively transferred to Youth Correctional Institution Complex to serve prison term); *U.S. ex rel. Stuart v. Yeager*, 293 F. Supp. 1079 (D.N.J. 1968), *aff'd*, 419 F.2d 126 (3d Cir. 1969) (transfer of state prisoner from one state prison to another did not violate any of prisoner's constitutional rights).

## N.J.S. 48:12-109. State officials and employees entitled to free transportation<sup>83</sup>

The following persons, during their respective terms of office or employment, shall pass and repass, free of charge, in regular coach service, over all railroads operating such passenger service, in this State within the borders of this State:

The Governor,<sup>84</sup> ~~Chancellor,~~<sup>85</sup> ~~Vice-Chancellors,~~<sup>86</sup> Justices of the Supreme Court<sup>87</sup> ~~and~~ judges of the ~~Superior Court and the Tax Court court of errors and appeals Appellate Division of the Superior Court,~~<sup>88</sup> ~~judges of the circuit court Law Division of the Superior Court,~~<sup>89</sup> Attorney General<sup>90</sup> and ~~his~~ the legal assistants to the Attorney General,<sup>91</sup> ~~secretary and assistant~~ Secretary

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<sup>83</sup> See *Howe v. Allied Van Lines, Inc.*, 622 F.2d 1147, 1153 n.13 (3d Cir. 1980) (acknowledging that “[n]umerous states have also enacted similar preferential legislation” and noting that “railroads in New Jersey are required to carry free of charge state employees who are traveling on state business.”). Compare *Napier v. Delaware, L. & W.R. Co.*, 91 N.J.L. 282 (1917) (finding that requiring a *private railroad* to carry a person enumerated in the statute over its lines without payment of fare is unconstitutional) with N.J. STAT. ANN. § 27:25-4 (creating, pursuant to the New Jersey Public Transportation Act of 1979, the N.J. Transit Corporation, “a body corporate and politic with corporate succession) and N.J. STAT. ANN. § 27:25-5.17 (providing that the N.J. Public Transp. Act of 1979 “shall not affect certificates issued pursuant to [N.J.S.] 48:12-109... or any pass issued by the corporation providing for transportation of current or retired employees....”), N.J. STAT. ANN. § 48:12-110 (requiring the Sec. of State to issue a certificate in card form under seal to each person designated in [N.J.S.] 48:12-109) (amended by L. 1969, c. 159, 2, eff. Sept. 9, 1969), N.J. STAT. ANN. § 48:12-111 (production of certificate on request); N.J. STAT. ANN. § 48:12-112 (loaning certificate; illegal use), N.J. STAT. ANN. § 48:12-113 (certificate taken up for misuse), N.J. STAT. ANN. § 48:12-114 (return of certification at expiration of office), and N.J. STAT. ANN. § 48:12-115 (“Nothing in sections 48:12-109 to 48:12-114 of this title shall modify or alter any charter or statute obligation already existing imposed upon any railroad to pass and repass free of charge any officer or employee of this state.”). See also Exec. Order No. 60, May 29, 1999 (ordering that the terms of N.J.S. 48:12-109 “shall continue to be strictly applied to ensure that no rail pass is issued to any person not specifically entitled to such pass under the statute...” and issuing future permits to the state Departments responsible for their use).

<sup>84</sup> N.J. Const. art. II, § 1 (1947) (enumerating that “[t]he Governor... shall be chosen by general election....”).

<sup>85</sup> N.J. STAT. ANN. § 1:1-22(f) (providing that “Where the reference is to the Chancellor as acting in, or constituting, the Court of Chancery, it shall be given effect as though it were to the Chancery Division of the Superior Court or to a Judge of the Superior Court assigned to the Chancery Division thereof, and otherwise as though it were to the Chief Justice of the Supreme Court established by the Constitution of 1947....”).

<sup>86</sup> N.J. STAT. ANN. § 1:1-22(j) (providing that references to Vice Chancellor, shall be given effect as though it were to a Judge of the Superior Court assigned to the Chancery Division).

<sup>87</sup> N.J. Const. art. VI, § 6, ¶ 1 (1947).

<sup>88</sup> N.J. Stat. Ann. § 1:1-22(a) (providing that references to “the Court of Errors and Appeals be given effect as though it were to the Supreme Court established by the Constitution of 1947, except where right of review by Court of Errors and Appeals, by appeal or otherwise is provided for in such statute.”). *Minutes* N.J. LAW REVISION COMM’N Meeting 21 Dec. 2023, ‘Juvenile Justice – State Home for Boys and Girls’ at \*-- [hereinafter Dec. Minutes] (statement of Comm’r Rainone, recommending that references to the judiciary – law division, appellate, and chancery – be replaced with a reference to judges of the Superior Court).

<sup>89</sup> N.J. STAT. ANN. § 1:1-22(e) (providing that “[w]here the reference is to the Circuit Court, it shall be given effect as though it were to the Law Division of the Superior Court, or a judge of the Superior Court assigned to the Law Division thereof....”). See Dec. Minutes at \*-- (statement of Comm’r Rainone).

<sup>90</sup> N.J. Stat. Ann. § 52:17A-2 (establishing the Dep’t of Law headed by the Attorney-General).

<sup>91</sup> N.J. Stat. Ann. § 52:17A-3 (providing that the Dep’t of Law & Public Safety to be administered by the Attorney-General and assistant Attorneys-General, deputy Attorneys-General and assistant deputy Attorneys-General).

of State,<sup>92</sup> State Treasurer,<sup>93</sup> deputy State Treasurer,<sup>94</sup> State Comptroller,<sup>95</sup> deputy State Comptroller,<sup>96</sup> assistant to comptroller,<sup>97</sup> ~~State Tax Commissioner,<sup>2</sup> Director of the Division of Taxation in the State Department of the Treasury,<sup>98</sup> chief engineer in the Division of Railroad Valuation of the State Tax Department,<sup>99</sup> State supervisor of inheritance tax,<sup>100</sup> members and secretary of the State Board of Tax Appeals,<sup>101</sup> standing advisory masters of the court of chancery,<sup>102</sup> clerk and deputy clerk in chancery,<sup>103</sup> Clerk of the Supreme Court,<sup>104</sup> adjutant general,<sup>105</sup> quartermaster general,<sup>106</sup> secretary to the Governor,<sup>107</sup> executive clerk,<sup>108</sup> clerk to the school fund,<sup>109</sup> State Librarian,<sup>110</sup> ~~eustodian of the Capitol, Chairperson of the State Capitol Joint~~~~

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<sup>92</sup> N.J. STAT. ANN. § 52:16A-2 (setting forth that the head of the Dep't of State shall be the Sec'y of State who shall be appointed by the Governor).

<sup>93</sup> N.J. STAT. ANN. § 52:19-10 (enumerating the general duties of the State Treasurer).

<sup>94</sup> N.J. STAT. ANN. § 58:18A-30 (authorizing the State Treasurer to designate a Deputy State Treasurer).

<sup>95</sup> N.J. STAT. ANN. § 52:15C-2 (establishing the Office of the State Comptroller).

<sup>96</sup> N.J. STAT. ANN. § 52:15C-5(b)(1) (requiring the State Comptroller to establish the internal organization of the office and the bureaus therein and granting the authority to appoint assistants, employees, and personnel as the State Comptroller deems necessary).

<sup>97</sup> *Id.*

<sup>98</sup> N.J. STAT. ANN. § 54:29-2 (defining "Commissioner" or "State Tax Commissioner" to mean the Director of the Division of Taxation in the State Department of the Treasury).

<sup>99</sup> *See supra* note 98.

<sup>100</sup> N.J. Division of Taxation Organizational Chart (Sept. 26, 2023) (noting the absence of a position entitled State supervisor of inheritance tax). Available at: <https://www.nj.gov/treasury/taxation/pdf/orgchart.pdf> (last visited Nov. 21, 2023).

<sup>101</sup> N.J. STAT. ANN. § 54:3-21 (providing that mechanism for filing an appeal directly with the taxing district or the Tax Court). *See* Dec. Minutes at \*-- (statement of Comm'r Rainone).

<sup>102</sup> John E. Bebout and Joseph Harrison, *The Working of the New Jersey Constitution of 1947*, 10 WM. & MARY L. REV. 337, 345, 364 (1968), <https://scholarship.law.wm.edu/wmlr/vol10/iss2/4> (noting that at the time of the 1947 Constitution the Chancery Division consisted of the chancellor, ten-vice chancellors and fourteen advisory masters. The trial judges (vice chancellors and advisory masters) advised final orders and judgments which had to be signed by the chancellor. By 1953, and the years that followed, no person occupied this position).

<sup>103</sup> *Id.*

<sup>104</sup> N.J. Const. art. VI, § 7, ¶ 3 (1947) (providing that "[t]he Clerk of the Supreme Court... shall be appointed by the Supreme Court...").

<sup>105</sup> Command of New Jersey's military was originally vested in the Offices of the Adjutant General and Quartermaster General. By the late-nineteenth century, these functions were designated as separate departments. In 1948 they were merged into the Department of Defense. In 1987, management of the state's veterans' hospitals was transferred to the department and changed to the Department of Veterans Affairs and Defense. In 1988 it became the Department of Military and Veterans Affairs. *See* <https://www.nj.gov/state/archives/catdefense.html#:~:text=Command%20of%20the%20state's%20military,to%20New%20Jersey's%20early%20statehood> (last visited Nov. 21, 2023).

<sup>106</sup> *Id.*

<sup>107</sup> *See supra* note 84.

<sup>108</sup> N.J. STAT. ANN. § 40:38-28.1 (providing that the salary payable to the executive clerk (of a county) shall not be construed to restrict to restrict any of said employees from participating in... any cost of living bonus or longevity program established in such county.").

<sup>109</sup> N.J. STAT. ANN. § 48:12-109 is the only statute in which this undefined term appears.

<sup>110</sup> N.J. STAT. ANN. § 18A:73-33 (establishing the position of State Librarian).

~~Management Commission,<sup>111</sup> keeper and supervisor of the State Prison,<sup>112</sup> superintendent of the New Jersey reformatory, Commissioner of Corrections,<sup>113</sup> Commissioner and assistant commissioners of Education,<sup>114</sup> members, secretary and protectors<sup>115</sup> of the ~~Board of Fish and Game Commissioners~~ Division of Fish and Wildlife in the Department of Environmental Protection,<sup>116</sup> Secretary of the State Board of Agriculture,<sup>117</sup> Commissioner of Banking and Insurance,<sup>118</sup> deputy Commissioners of Banking and Insurance,<sup>119</sup> ~~chief, division of personal loan agencies of the Department of Banking and Insurance,~~<sup>120</sup> ~~chief, license division of the Department of Banking and Insurance,~~<sup>121</sup> ~~insurance investigator of the Department of Banking and Insurance,~~<sup>122</sup> Commissioner and special investigator of the Department of Institutions and Agencies,<sup>123</sup> ~~parole agent of the New Jersey State Prison~~ Director of Parole Supervision,<sup>124</sup> chief~~

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<sup>111</sup> N.J. STAT. ANN. § 52:31-34 (“State Capitol Joint Management Commission Act.”). N.J. STAT. ANN. § 52:31-39(a)(2) (requiring the commission to “maintain custody of the State capitol complex, with exclusive jurisdiction... to management and operation, including maintenance, repair, renovation, improvement, security, parking, furnishing, artifact displays, and space utilization....”).

<sup>112</sup> See N.J. STAT. ANN. § 30:1B-4 (head and chief executive officer of Department of Corrections is Commissioner of Corrections). N.J. STAT. ANN. § 30:4-6 (keeper of the State prison to receive every person sentenced to imprisonment); N.J. STAT. ANN. § 30:4-8.1 (keeper of the State Prison may authorize attendance of prisoner at bedside or funeral of dying or deceased relative); N.J. STAT. ANN. § 30:4-139 (keeper of the state prison to receive federal prisoners); N.J. STAT. ANN. § 30:4-145 (advances to keeper of the state prison for transporting guards and prisoners); N.J. STAT. ANN. § 52:13-10 (person found guilty of contempt of the legislature committed to keeper of the state prison); and N.J. STAT. ANN. § 53:1-20.3 (release of prisoner and obligation of the Principal Keeper of the State Prison).

<sup>113</sup> N.J. STAT. ANN. § 30:1B-4 (head and chief executive officer of Department of Corrections is Commissioner of Corrections).

<sup>114</sup> N.J. STAT. ANN. § 18A:4-1 (providing that the state department of education is a principal department in the executive branch of government and employing a commissioner of education). N.J. Stat. Ann. § 18A:4-1 (authorizing the commissioner to designate an assistant as deputy commissioner with full power to act in the commissioner stead as designated by the commissioner). N.J. Admin. Code § 6A:2-2.3(b)(2) (basic composition of department).

<sup>115</sup> N.J. STAT. ANN. § 23:1-4 (providing that the Division. of Fish & Wildlife in the Department of Environmental Protection has the authority to designate a fish and game warden as the fish and game protector and authorizing compensation for the protector and assistant protectors in amounts fixed by statute or authority of law). See also N.J. Stat. Ann. § 23:2-6 (power and duties of protector); N.J. Stat. Ann. § 23:2-8 (summary arrest by protector); N.J. Stat. Ann. § 23:2-9 (payment of appropriations for protectors).

<sup>116</sup> N.J. STAT. ANN. § 23:1-1 (defining “Division,” as the “Division of Fish, Game and Wildlife,” and “board,” or “Board of Fish and Game Commissioners” to mean the Division of Fish and Wildlife in the Department of Environmental Protection).

<sup>117</sup> N.J. STAT. ANN. § 4:1-15 (providing that the Secretary of Agriculture shall be appointed by the board, with the approval of the Governor). N.J. STAT. ANN. § 4:1-10 (“The Secretary of Agriculture shall serve as secretary of the Board.”).

<sup>118</sup> N.J. STAT. ANN. § 17:1-2 (setting forth that the head of the Department of Banking and Insurance is designated the “commissioner” and shall be appointed by the Governor).

<sup>119</sup> N.J. STAT. ANN. § 17:1-14(a) (authorizing the commissioner to appoint such deputy commissioners and assistant commissioners as the commissioner shall deem necessary).

<sup>120</sup> *Id.*

<sup>121</sup> *Id.*

<sup>122</sup> *Id.*

<sup>123</sup> N.J. STAT. ANN. § 30:1-2 (“The Department of Human Services created as the Department of Institutions and Agencies... and continued and reorganized by P.L.1976, c. 98, is continued and is hereby constituted a principal department in the Executive Branch of the State Government.”).

<sup>124</sup> N.J. STAT. ANN. § 30:4-123.48 (providing that parole officers “assigned to supervise adult parolees and all supervisory titles associated with the supervision of adult parolees in the parole officer job classification series shall be organizationally assigned to the State Parole Board with a sworn member of the Division of Parole appointed to act as director of parole supervision.”).



~~parole officer of the New Jersey State Home for Boys~~ Director of Juvenile Parole and Transition Services Juvenile Justice Commission, Director of Parole,<sup>125</sup> ~~chief parole officer of the New Jersey reformatory~~,<sup>126</sup> ~~field parole officer of the New Jersey reformatory~~,<sup>127</sup> ~~parole officer of the New Jersey State Home for Girls~~,<sup>128</sup> ~~State prison inspectors~~ corrections ombudsperson,<sup>129</sup> general agent and agents of the ~~State Board of Children's Guardians~~ Division of Child Protection and Permanency,<sup>130</sup> Commissioner of ~~Labor~~ the Department of Labor and Workforce Development,<sup>131</sup> bureau chiefs of the Department of Labor,<sup>132</sup> the members of the North Jersey Water Supply Commission,<sup>133</sup> members, counsel, secretary and inspectors of the Board of Public Utility<sup>134</sup> Commissioners,<sup>135</sup> ~~State Highway Commission~~<sup>136</sup> Department of Transportation<sup>137</sup> and its

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<sup>125</sup> N.J. ADMIN. CODE § 13:96-1.2 (defining “Director of Juvenile Parole and Transition Services” or “Director” to mean the Director of the Commission’s Office of Juvenile Parole and Transition Services (JP&TS) responsible for the supervision of juvenile parole officers employed by the JJC’s Office of Juvenile Parole and Transition Services). *But see* LeBaron Memorandum at \*1-2.

<sup>126</sup> *See supra* note 124 and accompanying text.

<sup>127</sup> *Id.*

<sup>128</sup> *See supra* note 125. *But see* LeBaron Memorandum at \*1-2.

<sup>129</sup> N.J. STAT. ANN. § 52:27EE-28.2 (“The corrections ombudsperson shall conduct inspections of State correctional facilities).

<sup>130</sup> N.J. STAT. ANN. § 30:4C-2.1 (continuing the work of the State Board of Children’s Guardians as the Division of Child Protection and Permanency).

<sup>131</sup> N.J. STAT. ANN. § 34:1A-1.1 (effective June 23, 2004, Department of Labor shall be entitled and known as the Department of Labor and Workforce Development); N.J. STAT. ANN. § 34:1A-2 (providing that the administrator and head of the department shall be a commissioner, who shall be known as the Commissioner of Labor and Industry).

<sup>132</sup> N.J. STAT. ANN. § 34:1A-4 (authorizing the commissioner to “delegate to subordinate officers or employees... such... powers as... may ... [be] desirable....”); N.J. STAT. ANN. § 34:1A-10 (continuing the organization of the Dep’t of Labor and constituting the divisions as bureaus).

<sup>133</sup> N.J. STAT. ANN. § 58:5-5 (“The commission appointed for the North Jersey water supply district shall be known as the North Jersey district water supply commission, and the commission appointed for the South Jersey water supply district shall be known as the South Jersey district water supply commission.”). *See* N.J. STAT. ANN. § 58:5-3 (providing for the appointment of commissioners).

<sup>134</sup> N.J. STAT. ANN. § 48:2-2 (board shall appoint a secretary, assistant secretaries, counsel and such other employees as it may deem necessary).

<sup>135</sup> N.J. STAT. ANN. § 27:1A-4 (providing the head of the Department of Transportation shall be a commissioner). N.J. STAT. ANN. § 27:1A-6 (authorizing the commissioner to designate any officer or employee in the department to perform all of the powers, functions and duties of the commissioner during the absence or disability of the commissioner). *See also* N.J. STAT. ANN. § 27:1A-10 (authorizing the Commissioner of Transportation to appoint assistants to the Assistant Commissioner for Engineering and Operations – State Highway Engineer, a Deputy State Highway Engineer and two chief engineers).

<sup>136</sup> In 1935, highway management and administration were changed to a single State Highway Commissioner who reported directly to the governor. *See* <https://www.nj.gov/transportation/about/50thanniversary/history.shtm> (last visited Nov. 21, 2023). In 1966, the Legislature established the New Jersey Department of Transportation. *Id.* N.J. STAT. ANN. § 27:1A-1. A reference to the “State Highway Commission” appears in the following statutes: N.J. STAT. ANN. § 12:3-37; N.J. STAT. ANN. § 27:11-2; N.J. STAT. ANN. § 32:2-26; N.J. STAT. ANN. § 39:4-199; N.J. STAT. ANN. § 40:37-11; N.J. STAT. ANN. § 40:37-95.13; N.J. STAT. ANN. § 40:56-50; N.J. STAT. ANN. § 40:67-16; N.J. STAT. ANN. § 48:4-32; N.J. STAT. ANN. § 48:12-109; N.J. STAT. ANN. § 52:14-5.

<sup>137</sup> N.J. STAT. ANN. § 27:1A-1

engineers,<sup>138</sup> State Geologist,<sup>139</sup> members,<sup>140</sup> chief examiner<sup>141</sup> and secretary<sup>142</sup> of the Civil Service Commission,<sup>143</sup> State and assistant State Purchasing Agent,<sup>144</sup> Director of Public Record Office,<sup>145</sup> Superintendent of Weights and Measures,<sup>146</sup> State Auditor,<sup>147</sup> ~~members of New Jersey Interstate Bridge and Tunnel Commission,~~<sup>148</sup> members, counsel and secretary of the South Jersey Port ~~Commission~~ Corporation,<sup>149</sup> ~~members, secretaries and engineer of the New Jersey Traffic Commission,~~<sup>150</sup> members of the Rehabilitation Commission,<sup>151</sup> ~~members and director of the Board of Conservation and Development,~~<sup>152</sup> members and chief engineer of the Board of Commerce and

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<sup>138</sup> N.J. STAT. ANN. § 27:1A-10 (authorizing the Commissioner of Transportation to appoint assistants to the Assistant Commissioner for Engineering and Operations – State Highway Engineer, a Deputy State Highway Engineer and two chief engineers).

<sup>139</sup> N.J. STAT. ANN. § 13:10-2 (providing for the appointment of a state geologist).

<sup>140</sup> N.J. STAT. ANN. § 11A:2-3 (providing that the Civil Service Commission shall “consist of five members appointed by the Governor....”).

<sup>141</sup> Aside from the instant statute, the New Jersey statutes no longer reference a “chief examiner.”

<sup>142</sup> N.J. STAT. ANN. § 11A:7-12 (authorizing the “Director of the Division of Equal Employment Opportunity and Affirmative Action shall serve as executive secretary.”).

<sup>143</sup> N.J. STAT. ANN. § 11A:2-1 (establishing the Civil Service Commission in, but not of, the Dep’t of Labor & Workforce Development in the Executive Branch of State gov’t).

<sup>144</sup> N.J. STAT. ANN. § 52:25-5 (“The state purchasing department, created and established by an act entitled “An act to establish a state purchasing department,” approved April twenty-first, one thousand nine hundred and thirty-one (L.1931, c. 179, p. 401), is continued.”).

<sup>145</sup> N.J. STAT. ANN. § 2A:158A-15.1 (judge or court support office authorized to obtain information from any public record officer of the State); N.J. STAT. ANN. § 2B:24-10 (court is authorized to obtain information from any public record officer of the state); N.J. STAT. ANN. § 47:2-3 (“public record office shall have general and exclusive supervision, care, custody and control of all public records, books, pamphlets, documents, manuscripts, archives, maps and papers of any public office, body, board, institution or society which has or may become extinct....”); N.J. STAT. ANN. 47:2-4 (Examination of Records of Counties); N.J. STAT. ANN. 47:2-5 (Preservation and Restoration of Records); and N.J. STAT. ANN. 47:2-7 (Transfer of Records); N.J. STAT. ANN. 47:2-8 (Historical records; acquisition and preservation).

<sup>146</sup> N.J. STAT. ANN. § 52:17B-25 (transferring the powers and duties of the State Superintendent of Weights and Measures to the Superintendent of the Division of Weights and Measures).

<sup>147</sup> N.J. Const. art. VII, § 1, ¶ 6. N.J.S. 52:24-1 (“The office of state auditor, created by an act entitled “An act creating the office of state auditor and defining his powers and duties,” approved June twenty-sixth, one thousand nine hundred and thirty-three (L.1933, c. 295, p. 793), is continued.”).

<sup>148</sup> L.1918, c. 49, p. 139 (Suppl.1924, §§ \*216-12 to \*216-19) (providing “An act to provide for an Interstate Bridge and Tunnel Commission and to define its powers and duties,” approved February fourteenth, one thousand nine hundred and eighteen). Aside from the instant statute, the New Jersey statutes no longer reference a “New Jersey Interstate Bridge and Tunnel Commission.”

<sup>149</sup> N.J. STAT. ANN. § 12:11A-24 (dissolving the South Jersey Port Comm’n and transferring all rights, title and interest to the South Jersey Port Corporation). N.J. STAT. ANN. § 12:11A-1 (creating the South Jersey Port Corp.).

<sup>150</sup> Aside from the instant statute, the New Jersey statutes no longer reference a “New Jersey Traffic Commission.”

<sup>151</sup> N.J. STAT. ANN. § 34:16-21 (establishing the Rehabilitation Commission which is placed in the Dep’t of Labor & Industry).

<sup>152</sup> Originally created by L.1915, c. 241, suppl. by L.1924, c. 213, the Department and Board of Conservation and Development (§ 13:1-1 et seq., repealed) succeeded to and exercised all the rights and powers of the former board of forest park reservation commissioners, the state geological survey and the board of managers thereof, the Washington Crossing commission, the state museum commission, and the Fort Nonsense park commission, pursuant to § 13:1-13, repealed. The Department and Board of Conservation and Development was transferred for the most part to the Division of Forestry, Geology, Parks and Historic Sites (*see* § 13:1A-23 et seq., repealed) within the Department of Conservation (§ 13:1A-1 et seq., repealed), by L.1945, c. 22, § 24 (§ 13:1A-24, repealed). The functions, powers and duties of the Division of Forestry, Geology, Parks and Historic Sites in the Department of Conservation were assigned to the Division of Planning and Development in the Department of Conservation and Economic Development by L.1948, c. 448, § 7 (§ 13:1B-7, repealed). The Division of Planning and Development was subsequently renamed the

Navigation,<sup>153</sup> members of the Department of Health of the State of New Jersey,<sup>154</sup> Director and assistant director of Health of the State of New Jersey,<sup>155</sup> ~~members of the Board of Shell Fisheries,~~<sup>156</sup> ~~Director of Shell Fisheries~~ Director of the Division of Fish, Game and Wildlife,<sup>157</sup> members and officers of both Houses of the Legislature of this State and the members of the House of Representatives and United States Senators of New Jersey.

<sup>1</sup> Treatment of references to courts and judicial officers in statutes effective prior to September 15, 1948, see N.J.S.A. § 1:1-22.

<sup>2</sup> Reference to state tax commissioner means director of division of taxation in department of treasury. See N.J.S.A. § 54:29A-2.

### Comments

The anachronistic references contained in the statute have been removed and replaced with contemporary references to the individuals and institutions where applicable.

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Division of Resource Development (*see* § 13:1B-7 et seq.), by L.1961, c. 47, § 12 (*see* § 13:1B-69). A Division of Parks, Forestry and Recreation was established in the Department of Conservation and Economic Development by L.1966, c. 54 (*see* § 13:1B-15.100 et seq.), which was subsequently continued in the Department of Environmental Protection by L.1970, c. 33, §§ 3, 21 (*see* §§ 13:1B-5, 13:1D-18), and later redesignated the Division of Parks and Forestry by L.1971, c. 133, § 3 (*see* § 13:1D-18.1). *See, also*, § 13:1L-1 et seq., where laws relating to parks and forests have been consolidated by L.1983, c. 24.

<sup>153</sup> N.J. STAT. ANN. § 12:2-9 (providing board may create subdepartments or divisions, to take specific charge of different lines of work); N.J. STAT. ANN. § 12:3-61 (providing for written notice of lien given by posting signed by commissioner or chief engineer); and N.J. STAT. ANN. § 12:3-60 (providing for removal of boat upon notice signed by the chief engineer of the board).

<sup>154</sup> N.J. STAT. ANN. § 26:1A-2 (creating the State Dep't of Health).

<sup>155</sup> N.J. STAT. ANN. § 26:1A-5 (Divisions; directors, State Dep't of Health).

<sup>156</sup> *See infra* note 122 (Division of Fish, Game & Wildlife).

<sup>157</sup> N.J. STAT. ANN. § 13:1B-69 (defining the “director of shell fisheries” to mean the director of the Division of Shell Fisheries). N.J. STAT. ANN. § 13:1D-1 (reorganizing the Dep't of Conservation & Econ. Dev. and noting that “[t]he term of the Director of the Division of Shell Fisheries shall expire on the effective date of this act.”). Section 22 of L.1970, c. 33, approved April 22, 1970. N.J. STAT. ANN. § 23:2B-15 (providing that [t]he Division of Fish, Game and Shellfisheries is continued and constituted as the Division of Fish, Game, and Wildlife in the Department of Environmental Protection... [and] the powers of the director are continued in the Division of Fish, Game and Wildlife and the director thereof....”

## For Reference

### **N.J.S. 30:3-5(2). Use of Moneys provided for by this act; order of precedence as to institution.**

6. The moneys raised by this act shall be devoted exclusively to the acquisition of sites for and the constructing, reconstructing, development, extending and equipping of state charitable, hospital, relief, training, correctional, reformatory and penal institutions and appurtenances thereto, in the order of precedence set forth in this section...

**State Home for Boys, Jamesburg -- New dormitory, housing for inmates... 65,000.00...**

**State Home for Girls, Trenton – Repairs and reconstruction of buildings... 50,000.00...**

### Comments

When a search for the term “State Home for Boys” is conducted on Westlaw using the search parameters TE(“State Home for Boys”) it will return two statutes from the New Jersey Acts Saved From Repeal - N.J.S. 30:3-5(2) and N.J.S. 30:3-6(1). Statutes “designated ‘saved from repeal’ shall have operative force and effect only to the extent that they were operative and effective at the time of taking effect of the Revised Statutes...”<sup>158</sup> These statutes “remain superseded or repealed and shall have no further or additional effect because of their inclusion in the *Revised Statutes*, or such other statute, as aforesaid.”<sup>159</sup> As a result, there is no recommended revision for these statutes.

### **N.J.S. 30:3-6(1). Appropriation from state institutional construction fund to state institutions enumerated**

1. For the purpose of further carrying into effect the provisions of chapter two hundred and twenty-seven of the laws of one thousand nine hundred and thirty, there is hereby appropriated from the “state institutional construction fund”, for the purposes herein enumerated, the several amounts herein set forth.

**State Home for Boys, Jamesburg – Repairs and reconstruction of buildings... 40,000.00...**

**State Home for Girls, Trenton – Housing for inmates... 75,000.00... Repairs and reconstruction of buildings... 40,000.00...**

### Comments

When a search for the term “State Home for Boys” is conducted on Westlaw using the search parameters TE(“State Home for Boys”) it will return two statutes from the New Jersey Acts Saved From Repeal - N.J.S. 30:3-5(2) and N.J.S. 30:3-6(1). Statutes “designated ‘saved from repeal’ shall have operative force and effect only to the extent that they were operative and effective at the time of taking effect of the Revised Statutes...”<sup>160</sup> These statutes “remain superseded or repealed and shall have no further or additional effect because of their inclusion in the *Revised Statutes*, or such other statute, as aforesaid.”<sup>161</sup> As a result, there is no recommended revision for these statutes.

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<sup>158</sup> N.J. STAT. ANN. § ACTS SAVED 1:1-21 (1937), as amended L.1960, c. 187, p. 783, § 13.

<sup>159</sup> *Id.*

<sup>160</sup> *See supra* note 158.

<sup>161</sup> *Id.*