

**ASSEMBLY, No. 2103**

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**STATE OF NEW JERSEY**

**212th LEGISLATURE**

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INTRODUCED JANUARY 30, 2006

**Sponsored by:**

**Assemblyman PETER J. BARNES, JR.**

**District 18 (Middlesex)**

**Assemblyman MICHAEL PATRICK CARROLL**

**District 25 (Morris)**

**Assemblyman ALFRED E. STEELE**

**District 35 (Bergen and Passaic)**

**Co-Sponsored by:**

**Assemblymen Connors, Johnson and Conaway**

**SYNOPSIS**

Creates permanent "Commission to Review Criminal Sentencing."

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 6/9/2006)**

1 AN ACT creating a permanent "Commission to Review Criminal  
2 Sentencing" to review the fairness and proportionality of the  
3 penalties imposed under this State's criminal laws and  
4 supplementing Title 2C of the New Jersey Statutes.

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

8  
9 1. a. The Legislature finds and declares that, since the New  
10 Jersey Code of Criminal Justice was codified in 1978 as Title 2C of  
11 the New Jersey Statutes, many new criminal offenses and sentences  
12 have been added to the code and penalties for many existing  
13 offenses have been enhanced.

14 b. The Legislature further finds and declares that the  
15 development of a rational, cost-effective and fair sentencing policy  
16 under the code must be informed by the ongoing collection,  
17 analysis, and dissemination of reliable information on the nature,  
18 effects, and costs of sentences imposed and carried out.

19 c. The Legislature further finds that new crimes and sentences  
20 should be reviewed against the existing criminal code and  
21 sentencing law to determine whether they are rational, cost-  
22 effective, and fair in relation to the entire criminal code and the  
23 sentencing policies endorsed by the criminal code.

24 d. The Legislature also finds that many other states have created  
25 permanent sentencing commissions to collect data, review, analyze  
26 and recommend changes in sentencing policy and law to ensure a  
27 fair, uniform, and cost effective means of punishing criminal  
28 offenders.

29  
30 2. a. There is hereby created a permanent commission to be  
31 known as the "Commission to Review Criminal Sentencing" to  
32 consist of 15 members as follows:

33 (1) two members of the Senate to be appointed by the President  
34 thereof, who shall not be of the same political party; two members  
35 of the General Assembly to be appointed by the Speaker thereof,  
36 who shall not be of the same political party;

37 (2) as ex-officio members, the Attorney General, or a designee;  
38 the Commissioner of Corrections, or a designee; the Public  
39 Defender, or a designee; the Chief Justice, or a designee; the  
40 Chairman of the State Parole Board, or a designee; the President of  
41 the New Jersey County Prosecutors Association, or a representative;  
42 the President of the New Jersey State Bar Association, or a  
43 representative; and

44 (3) one public member appointed by the Senate President; one  
45 public member appointed by the Speaker of the General Assembly;  
46 and two public members appointed by the Governor, no more than  
47 one of whom shall be of the same political party.

1       Of the four public members serving on the effective date of this  
2 act, the term of one public member shall expire in two years; the  
3 term of one public member shall expire in three years; the term of  
4 one public member shall expire in four years; and the term of one  
5 public member shall expire in five years. Thereafter, each public  
6 member shall serve a term of five years. A public member may be  
7 reappointed. In selecting the public members, the Senate President,  
8 the Speaker of the General Assembly and the Governor shall  
9 include persons who have experience, training, or academic  
10 background in victims' rights advocacy, alcohol and drug addiction  
11 counseling, corrections, judicial administration, or criminal law.  
12 The legislative members shall serve for the legislative session in  
13 which they were appointed. A legislative member may be  
14 reappointed. Any vacancy in the membership of the commission  
15 shall be filled by appointment in the same manner as the original  
16 appointment was made.

17       b. The commission shall organize as soon as possible after the  
18 appointment of its members. The members shall elect one of the  
19 members to serve as chair and vice-chair and the chair may appoint  
20 a secretary, who need not be a member of the commission. The  
21 commission may create and adopt by-laws and rules to govern its  
22 meetings and routine operations.

23       c. The members of the commission shall serve without  
24 compensation, but shall be eligible for reimbursement for necessary  
25 and reasonable expenses incurred in the performance of their  
26 official duties within the limits of funds appropriated or otherwise  
27 made available to the commission for its purposes.

28       d. The commission shall be entitled to call to its assistance and  
29 avail itself of the services of such employees of any State, county,  
30 or municipal department, board, bureau, commission, or agency as  
31 may be made available to it and to employ such legal, stenographic,  
32 technical, and clerical assistance and incur such expenses as may be  
33 necessary in order to perform its duties within the limits of funds  
34 appropriated or otherwise made available to it for its purposes.

35       e. The commission shall have the authority to apply for, accept,  
36 and use any gifts, grants, or other financial aid, in any form, from  
37 the federal government or any agency or instrumentality thereof, or  
38 from the State or from any other source, including private  
39 associations, foundations, or corporations, to accomplish any of its  
40 duties.

41       f. The commission shall have the authority to obtain records,  
42 reports, documents, data, and any other information deemed  
43 relevant from any other State or local agency, public entity, or other  
44 source to conduct and perform the commission's duties. All  
45 records, reports, documents, data, memoranda, correspondence, and  
46 any other information obtained, created, or produced by the  
47 commission or the commission's staff shall be exempt from the  
48 Open Public Records Act, P.L.1963, c.73 (C.47:1A-1 et seq.).

1       3. a. It shall be the duty of the commission to review the  
2 statutory law pertaining to sentences imposed for criminal offenses  
3 and make recommendations for legislation to be enacted, repealed,  
4 or amended by the Legislature that would ensure that these  
5 sentences are fair and proportionate to other sentences imposed for  
6 criminal offenses. It also shall be the ongoing duty of the  
7 commission to advise and assist the Legislature in the development  
8 of cost-effective, uniform, fair, and efficient sentencing policy and  
9 law, for both adult and juvenile offenders, by collecting, analyzing,  
10 researching, and distributing a broad array of information on State  
11 crime and sentencing issues. This duty also shall include, but not be  
12 limited to reviewing, analyzing, and recommending changes to laws  
13 and policies governing:

14       (1) sentencing provisions of the criminal code, such as  
15 recommendations for changing the statutory scheme and grading of  
16 crimes to insure fair, proportionate, and effective penalties for  
17 offenses;

18       (2) criminal records and expungement of these records,  
19 availability to the public and members of the law enforcement  
20 community, quality and nature of the information contained in  
21 criminal records, and use of criminal records in criminal sentencing  
22 and by the public;

23       (3) conditions, terms and effectiveness of parole and other post  
24 incarceration sentences;

25       (4) alternatives to incarceration for certain offenses;

26       (5) diversionary programs;

27       (6) length and terms of sentences;

28       (7) sentences within the juvenile justice system, including  
29 revisions to the New Jersey Code of Juvenile Justice; and

30       (8) collateral consequences of criminal convictions.

31       b. The commission shall receive upon written request, and in a  
32 timely manner, any and all sentencing, corrections and any related  
33 data or information it identifies as relevant from the Department of  
34 Law and Public Safety, the Administrative Office of the Courts, the  
35 Department of Corrections, the Juvenile Justice Commission, the  
36 State Board of Parole, and any other State or local public agency or  
37 entity in order to:

38       (1) empirically describe, with a reasonable degree of specificity,  
39 current sentencing practice in this State;

40       (2) utilize this descriptive capacity to analyze specific  
41 substantive issues concerning the application of current sentencing  
42 statutes, including the identification of critical problems;

43       (3) project, through empirical modeling, the impact of proposed  
44 changes to the sentencing laws on the Department of Corrections,  
45 both in terms of fiscal impact and on inmate population;

46       (4) assess the cost-effectiveness of current and proposed  
47 legislation relating to sentencing under the criminal code;

1 (5) analyze the effectiveness of using incarceration, or  
2 alternative forms of punishment, to deter both prospective and  
3 convicted offenders from committing future crimes;

4 (6) monitor and evaluate the racial, ethnic, and gender impact  
5 of existing and proposed sentencing legislation; and

6 (7) analyze, review, and comment upon existing and proposed  
7 legislation regarding crimes and sentencing and make  
8 recommendations to the Legislature in accordance with the  
9 commission's goals, including the submission of proposed  
10 legislation.

11 c. The commission shall meet no less than on a quarterly basis.

12

13 4. a. It also shall be the duty of the commission to review any  
14 bill, joint resolution, or concurrent resolution introduced in either  
15 House of the Legislature which establishes or modifies sentences  
16 for criminal offenses. The review shall include, but not be limited  
17 to, an analysis of the fairness, proportionality and effectiveness of  
18 the proposed or modified sentence.

19 b. Not later than the 20th day after the date of introduction of  
20 any bill or resolution in either House of the Legislature, the  
21 Legislative Counsel shall review it to determine whether the bill or  
22 resolution constitutes criminal sentencing legislation. If the  
23 Legislative Counsel determines that the bill or resolution constitutes  
24 such legislation, the Legislative Counsel shall promptly give written  
25 notice of that determination to the commission, the presiding officer  
26 of the House in which the bill or resolution was introduced and the  
27 chairperson of the standing reference committee of that House to  
28 which the bill or resolution may have been referred.

29 c. Not later than the 45th day after the date of introduction of  
30 any bill or resolution in either House of the Legislature which the  
31 Legislative Counsel has determined constitutes criminal sentencing  
32 legislation, the commission shall complete its review and provide  
33 its comments and recommendations in writing to the presiding  
34 officer of the House in which the bill or resolution was introduced  
35 and to the chairperson of the standing reference committee of that  
36 House to which the bill or resolution may have been referred. If the  
37 commission requests an extension prior to the 45th day after the  
38 date of introduction of a bill or resolution, the presiding officer of  
39 the House in which the bill or resolution was introduced may grant  
40 an extension for the commission to complete its review of the bill or  
41 resolution.

42 d. The House or committee shall not consider or vote upon the  
43 bill or resolution until either the commission completes its review  
44 and provides its comments and recommendations in writing to the  
45 presiding officer and the chairperson, or the 45th day after the date  
46 of introduction of the bill or resolution, or the designated day in the  
47 case of an extension. If the presiding officer of the House in which  
48 the bill or resolution was introduced determines that the bill or

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1 resolution is an urgent matter, he shall so notify in writing the  
2 commission and the chairperson of the standing reference  
3 committee to which the bill or resolution may have been referred,  
4 and the House or committee may consider and vote upon the bill or  
5 resolution as soon as practicable.

6

7 5. In addition to issuing comprehensive reports on substantive  
8 sentencing issues, including recommendations to the Legislature,  
9 and reviewing sentencing policy, the commission shall prepare and  
10 issue an annual report reflecting current sentencing practice.

11

12 6. The members of the Commission to Review Criminal  
13 Sentencing established by P.L.2003, c.265 shall remain members, in  
14 accordance with their terms, of the permanent Commission to  
15 Review Criminal Sentencing established by this act.

16

17 7. There is appropriated to the Commission to Review Criminal  
18 Sentencing established by this act from the General Fund such sums  
19 as may be necessary for the commission to carry out its purposes  
20 under this act.

21

22 8. P.L.2003, c.265 is repealed.

23

24 9. This act shall take effect immediately

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26

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STATEMENT

28

29 This bill would establish a permanent "Commission to Review  
30 Criminal Sentencing." The existing Commission to Review  
31 Criminal Sentencing established by P.L.2003, c.265 is a temporary  
32 commission scheduled to expire when it submits its final report to  
33 the Governor and Legislature.

34

35 Under the bill, the commission would be a permanent entity  
36 whose duties would continue to include reviewing whether criminal  
37 sentences set by the Legislature are fair and proportionate. The  
38 permanent commission is further charged with advising the  
39 Legislature in developing cost-effective, uniform, fair, and efficient  
40 sentencing policy and law by collecting, analyzing, researching, and  
41 distributing State crime and sentencing information.

42

43 The bill would further require that the commission review any  
44 bill, joint resolution, or concurrent resolution introduced in either  
45 House of the Legislature which establishes or modifies sentences  
46 for criminal offenses. The commission's review would include an  
47 analysis of the fairness, proportionality and effectiveness of the  
48 proposed or modified sentence. Under this provision, the  
Legislative Counsel of the Office of Legislative Services would,  
within 20 days of the introduction of a bill or resolution in either

1 House of the Legislature, review it in order to determine whether  
2 the bill or resolution constitutes criminal sentencing legislation.

3 If the Legislative Counsel determines that a bill or resolution  
4 constitutes criminal sentencing legislation, the Legislative Counsel  
5 must promptly notify in writing the commission, the presiding  
6 officer of the House in which the bill or resolution was introduced  
7 and the chairperson of the standing reference committee to which  
8 the bill or resolution is referred. The commission would have 45  
9 days from the date of introduction to review and provide its  
10 comments and recommendations in writing to the presiding officer  
11 and the standing reference committee chairperson. The commission  
12 may be granted an extension by the presiding officer of the  
13 appropriate House to complete its review of the bill or resolution.

14 The bill prohibits a House or committee from considering or  
15 voting upon a bill or resolution that constitutes criminal sentencing  
16 legislation until either the commission completes its review and  
17 provides its comments and recommendations in writing to the  
18 presiding officer and the chairman, or the 45th day after the bill or  
19 resolution is introduced, unless the presiding officer has determined  
20 it to be an urgent matter.

21 The bill authorizes the permanent commission to acquire from  
22 the public agencies, including the Department of Law and Public  
23 Safety, Administrative Office of the Courts, and the Department of  
24 Correction, relevant sentencing and corrections data in order to:

25 (1) empirically describe, with a high degree of specificity,  
26 current sentencing practice in this State;

27 (2) utilize this descriptive capacity to analyze specific  
28 substantive issues concerning the application of current sentencing  
29 statutes, including the identification of critical problems;

30 (3) project, through empirical modeling, the impact of proposed  
31 changes to the sentencing laws on the Department of Corrections,  
32 both in terms of fiscal impact and on inmate population;

33 (4) assess the cost-effectiveness of current and proposed  
34 legislation relating to sentencing under the Code of Criminal  
35 Justice;

36 (5) analyze the effectiveness of using incarceration, or  
37 alternative forms of punishment, to deter both prospective and  
38 convicted offenders from committing future crimes; and

39 (6) monitor and evaluate the racial, ethnic, and gender impact of  
40 existing and proposed punishment legislation.

41 The bill also confers authority on the commission to apply for,  
42 accept, and use any gifts, grants, or financial or other aid in any  
43 form, from the federal government or any agency or instrumentality  
44 thereof, or from the State or from any other source, including  
45 private association, foundations, or corporations, to accomplish any  
46 of its duties.

47 Under the bill, all records, reports, documents, data, memoranda,  
48 correspondence, and any other information obtained, created, or

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1 produced by the commission or commission's staff would be  
2 exempt from the Open Public Records Act, P.L.1963, c.73  
3 (C.47:1A-1 et seq.).