



## **NEW JERSEY LAW REVISION COMMISSION**

### **Final Report Relating to the Use of the Word “Workhouse” in the New Jersey Statutes**

**April 15, 2021**

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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## Executive Summary

The Commission previously examined the criteria for sentencing a persistent offender to an extended term of imprisonment pursuant to N.J.S. 2C:44-3.<sup>1</sup> In the absence of a statutory definition for the term “confinement,” the Commission examined the types of institutions in New Jersey in which a criminal defendant may be imprisoned.<sup>2</sup>

That examination revealed the continued use of the term “workhouse” in New Jersey’s statutes. Amid a statewide, and national, move to reexamine statutory language rooted in systemic racism, the presence of this term in New Jersey’s body of statutes is of concern since it ties back to the oppressive ideals of its colonial-era origins, which supports a recommendation for its elimination from the statutes.<sup>3</sup>

## Background

In May of 1668, the first general assembly of New Jersey met in Elizabethtown and enacted a criminal code.<sup>4</sup> The code was reenacted in December of 1675, and served as the basis of East Jersey criminal procedure.<sup>5</sup> Based on the Puritan conceptions of criminal justice, the punishments for various crimes set forth in the code were severe and included: death, mutilation, branding, the stocks, or whipping.<sup>6</sup> Imprisonment was not a punishment meted out with any frequency in Colonial New Jersey, and would not be until the mid-1670s.<sup>7</sup>

By 1677, the Quaker proprietors of West Jersey drafted a constitution that contained the territory’s first provisions for the administration of justice.<sup>8</sup> Unlike the East Jersey codes of 1668 and 1675, the West Jersey constitution set forth “mild and elastic” penalties for criminal offenses, and permitted the courts to impose punishments that fit the circumstances of the transgression.<sup>9</sup> In addition, the “absolute freedom of opinion and worship was decreed... and the imprisonment of honest debtors was forbidden.”<sup>10</sup>

The 1682 criminal and civil codes of East Jersey reflected the Quaker influence prevalent in West Jersey.<sup>11</sup> The punishments in the East Jersey criminal code, during the 1680s have been characterized as a “milder and more enlightened system” of dealing with crime and its punishment

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<sup>1</sup> Revised Draft Tentative Report Clarify the Statute Relating to Confinement in New Jersey’s Code of Criminal Justice (N.J.S. 2C:44-3) from Arshiya Fyazi, Counsel, to the New Jersey Law Revision Commission 1 (Nov. 09, 2020) (on file with the Commission).

<sup>2</sup> *Id.*

<sup>3</sup> See also Comments of Assemblywoman Verlina Reynolds-Jackson contained in the Press Release, Governor Phil Murphy, Governor Murphy Signs Legislation to Eliminate the Title “Freeholder” from Public Officer (Aug. 21, 2020) (on file with author).

<sup>4</sup> Emil Frankel, Crime Treatment in New Jersey-- 1668-1934, 28 Am. Inst. Crim. L. & Criminology 90, 91 (1937-1938).

<sup>5</sup> *Id.*

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

<sup>7</sup> *Id.*

<sup>8</sup> Frankel, Crime Treatment in New Jersey-- 1668-1934, 28 Am. Inst. Crim. L. & Criminology at 93.

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> *Id.* at 92.

based in part upon a growing Quaker influence.”<sup>12</sup> Although the code provided for confinement, this method of punishment was primarily utilized in the case of debtors.<sup>13</sup> When the Puritans immigrated into West Jersey from East Jersey, New England, and England itself, however, their attitudes toward the appropriate punishment for criminal behavior began to appear in criminal legislation.<sup>14</sup> By the close of the seventeenth century, the criminal code of West Jersey began to reflect the strict criminal procedure of the code of Puritan East Jersey.<sup>15</sup>

After the unification of East and West Jersey in 1702, there were no dramatic changes in the criminal code.<sup>16</sup> The diametrically opposed criminal codes of East and West Jersey would “...gradually be assimilated through mutual interaction and interpenetration of the social forces which brought them into being and were carried over into the united province and perpetuated throughout the colonial period.<sup>17</sup> As a result, the criminal codes addressed the transgressions of a developing society and sought to “escape the expense connected [to] the... detention of debtors and petty offenders for whom imprisonment was not intended or adapted as a punishment.”<sup>18</sup>

The concept of imprisonment as an accepted method of punishment finds its origins in the European institution of the “workhouse.”<sup>19</sup> Both New Jersey and Pennsylvania “shared the distinction of being the first [state governments to] definitely and consistently... employ the Quaker practice of utilizing the workhouse as the basis of the penal system.”<sup>20</sup> Rather than physical torture, New Jersey employed hard labor as the primary method to protect its citizens from criminals, while effecting the punishment and reformation of those who violated the law.<sup>21</sup> The New Jersey workhouse system was modeled after the European workhouses that were employed for “the suppression of all pauperism and disorderly conduct, rather than as a basis of the penal system.”<sup>22</sup> Early workhouses in New Jersey were built to keep “vagrants, debtors, and persons awaiting trial or execution” in custody.<sup>23</sup> In time, the workhouses would be utilized “for the punishment of ‘fellons’ and other malefactors.”<sup>24</sup>

By act of December 16, 1748, the County of Middlesex authorized the construction of the first workhouse in New Jersey.<sup>25</sup> The act provided:

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<sup>12</sup> See George W. Kirchwey, Report of the New Jersey Prison Inquiry Comm’n, 9 J. Am. Inst. Crim. L. & Criminology 207 (May 1918 to Feb. 1919).

<sup>13</sup> Frankel, Crime Treatment in New Jersey-- 1668-1934, 28 Am. Inst. Crim. L. & Criminology at 92-93.

<sup>14</sup> *Id.* at 93.

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

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

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

<sup>18</sup> *Id.*

<sup>19</sup> *Id.* at 94.

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

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

<sup>22</sup> *Id.*

<sup>23</sup> Kirchwey, Report of the New Jersey Prison Inquiry Comm’n, 9 J. Am. Inst. Crim. L. & Criminology at 218.

<sup>24</sup> *Id.* at 218.

<sup>25</sup> *Id.* at 218. See also Emil Frankel, Crime Treatment in New Jersey-- 1668-1934, 28 Am. Inst. Crim. L. & Criminology at 94.

Whereas, Divers of the Inhabitants of the County of Middlesex have humbly certified to the General Assembly by their petition that the numbers of poor people have of late years very much increased within the said county, and that, for the better regulation and government of the said county, it is highly necessary that a poorhouse shall be erected within the same for the maintenance and employment of such poor persons as may become chargeable to the several cities and townships within the said county, and for the educating and bringing up of poor children in some honest and industrious way; as also a workhouse and House of Correction for setting to work and punishing all vagrants, vagabonds, and pilferers, and all idle and disorderly persons, servants, and slaves within the limits of the said county, and the depressing of vice and immorality.

New Jersey's Prison Inquiry Commission observed that the workhouse would, in part, serve as an institution that would confine "disorderly or insubordinate slaves or servants upon the application of their masters."<sup>26</sup> Over the next half-century, additional counties would authorize the use of workhouses in their vicinages.

Just before the turn of the eighteenth century, several counties had, by act, established workhouses.<sup>27</sup> Pursuant to this act, a justice of the peace could "commit to the said work-house, to hard labour, any stubborn, disobedient rude or intemperate slave or male servant, on complaint of his or her master or mistress, and also after due investigation... to order such person to be punished by such confinement and labour, as the said justice shall think reasonable."<sup>28</sup> This sentiment, regarding the nature and purpose of New Jersey's workhouse would eventually be shared by the judiciary.

The acts of the county government regarding workhouses provide "considerable light upon the cotemporary opinion as to the nature and purpose of the workhouse system."<sup>29</sup> An examination of the case law regarding workhouses provides the judicial perspective of the time. In 1857, the New Jersey Judiciary noted, in *State v. Ellis*, that "[w]orkhouses and jails, being both used for the purpose of penal confinement, are not unfrequently regarded as identical."<sup>30</sup> The two institutions, however, are "entirely distinct in their origin, object and government."<sup>31</sup> County jails were designed for the confinement of criminals and persons charged with offenses against the law.<sup>32</sup> By contrast, New Jersey's workhouses were "authorized to be built by the board of chosen freeholders ... [and serve] as a place for the confinement [of] disorderly persons, and for disobedient or

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<sup>26</sup> Kirchwey, Report of the New Jersey Prison Inquiry Comm'n, 9 J. Am. Inst. Crim. L. & Criminology at 218.

<sup>27</sup> A76 "An Act for the establishment of Work-houses in the several counties of this state," Feb.20,1799, §§ 5 & 6, Acts 23rd G.A. 2nd sitting, ch. DCCLXXVII, p. 499, 500-501, Pat.378, 379, Penn. 443, 444.

<sup>28</sup> *Id.*

<sup>29</sup> Emil Frankel, Crime Treatment in New Jersey-- 1668-1934, 28 Am. Inst. Crim. L. & Criminology at 94.

<sup>30</sup> *State v. Ellis*, 26 N.J.L. 219, 220 (Sup. Ct. 1857).

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

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

intemperate slaves or servants.”<sup>33</sup> For the next 121 years, from 1748 until 1869, the primary purpose of New Jersey’s “workhouses” would remain unchanged.<sup>34</sup>

In 1869, the completion of the Hudson County Workhouse ushered in a new era and focus for New Jersey’s “workhouses.”<sup>35</sup> The penal function of the mid-nineteenth-century workhouse, or penitentiary, would be the focus of this Hudson County institution.<sup>36</sup> In the almost fifty years that followed, Essex, Mercer, Camden, and Middlesex would each authorize the construction of “penal” workhouses of their own - Essex County in 1873, Mercer County in 1872, the City of Camden in 1913-1914, and in 1916 bonds were issued by Middlesex County for the construction of a county workhouse.<sup>37</sup>

By 1918, there were three workhouses in operation in New Jersey, with a population of nearly 700 inmates.<sup>38</sup> Of the 700 members of the “delinquent population” approximately 100 were “women and girls, and over half of who [were] persons eligible for commitment to the State Prison.”<sup>39</sup> According to the New Jersey’s Prison Inquiry Commission, “[t]he workhouses thus established and authorized came into existence partly to relieve the overcrowding of the jails and partly to satisfy the terms of sentences to imprisonment at hard labor, which the county jails notoriously failed to supply.”<sup>40</sup>

Almost 318 years after the unification of East and West Jersey, references to imprisonment at hard labor and workhouses can still be found in New Jersey’s current statutes.

### Statutory Overview

Originally enacted in 1877, N.J.S. 30:8-33 authorizes the imprisonment of certain inmates at hard labor.<sup>41</sup> In New Jersey, “[e]very person sentenced to imprisonment at hard labor for not more than six months shall be delivered by the sheriff ... to the master of the workhouse.”<sup>42</sup> For the next 100 years, county workhouses remained under the “direction, superintendence and government of the board of chosen freeholders.”<sup>43</sup> The county government could designate a “workhouse master” to manage the day-to-day operation of this institution.<sup>44</sup> In the mid-1970s, the authority of the freeholders to control county workhouses ceased.

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

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

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

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

<sup>37</sup> See Kirchwey *supra* n. 26 at 218.

<sup>38</sup> *Id.*

<sup>39</sup> *Id.*

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

<sup>41</sup> N.J. STAT. ANN. § 30:8-33 (West 2020), amended by L.1953, c. 29, § 54, eff. Mar. 19, 1953. See also Rev.1877, p. 1251, § 3 [C.S. p. 2953, § 35]. See SCR 145, 219<sup>th</sup> Leg., 1<sup>st</sup> Sess. (N.J. 2020) (seeking to amend the New Jersey Constitution to prohibit slavery and involuntary servitude as punishment for a crime noting that prisoners in New Jersey are required to engage in labor, for a minimal pay, while incarcerated).

<sup>42</sup> *Id.*

<sup>43</sup> N.J. STAT. ANN. § 30:8-32 (West 2020).

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

In 1976, all functions, powers, and duties of the Commissioner of Institutions and Agencies with respect to all county workhouses were transferred to the Department of Corrections.<sup>45</sup> The Commissioner of the Department of Corrections was given the authority to promulgate rules and regulations where necessary to establish minimum standards for the care, treatment, government and discipline of inmates.<sup>46</sup>

Although the concept of a workhouse dates back to colonial New Jersey, the term is not defined in New Jersey's body of statutes. Despite the lack of a statutory definition, the word is found in fifty statutes that span twelve titles.<sup>47</sup> The statutes relating to isolated confinement<sup>48</sup> and the transfer of inmates<sup>49</sup> each define "county correctional facility" to include a workhouse, suggesting that the term may be easily replaced with a term that is not burdened with offensive history.<sup>50</sup>

## Outreach

In connection with this Report, the Commission sought comments from several knowledgeable individuals and organizations. These stakeholders included: the Attorney General of New Jersey; the Corrections and State Police Section of the Attorney General; the New Jersey Administrative Office of the Courts; the Juvenile Justice Commission; the New Jersey Detention Association; the New Jersey Warden's Association; the National Partnership for Juvenile Services; the County Youth Services Commission; the New Jersey Bar Association, Child Welfare Section; the New Jersey State Municipal Prosecutors' Association; the New Jersey Association of Criminal Defense Lawyers; the Office of the Public Defender; the Criminal Law Section of the New Jersey State Bar Association; the New Jersey County Prosecutor's Association; private criminal defense attorneys; the New Jersey State League of Municipalities; the New Jersey Association of Counties;

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<sup>45</sup> N.J. STAT. ANN. § 30:1B-10 (West 2020).

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

<sup>47</sup> N.J. STAT. ANN. § 2A:4A-23 (West 2020); N.J. STAT. ANN. § 2A:67-4 (West 2020); N.J. STAT. ANN. § 2C:43-10 (West 2020); N.J. STAT. ANN. § 2C:46-4 (West 2020); N.J. STAT. ANN. § 4:7-55 (West 2020); N.J. STAT. ANN. § 5:5-69 (West 2020); N.J. STAT. ANN. § 5:5-70 (West 2020); N.J. STAT. ANN. § 12:7-46 (West 2020); N.J. STAT. ANN. § 12:7-58 (West 2020); N.J. STAT. ANN. § 26:3-78 (West 2020); N.J. STAT. ANN. § 30:1-15 (West 2020); N.J. STAT. ANN. § 30:1B-10 (West 2020); N.J. ANN. § 30:4-82.7 (West 2020); N.J. STAT. ANN. § 30:4-85.1 (West 2020); N.J. STAT. ANN. § 30:4-91.3c (West 2020); N.J. STAT. ANN. § 30:4-123.46 (West 2020); N.J. STAT. ANN. § 30:4-123.49 (West 2020); N.J. STAT. ANN. § 30:4-123.50 (West 2020); N.J. STAT. ANN. § 30:4-123.51 (West 2020); N.J. STAT. ANN. § 30:8-16.1 (West 2020); N.J. STAT. ANN. § 30:8-16.2 (West 2020); N.J. STAT. ANN. § 30:8-16.7 (West 2020); N.J. STAT. ANN. § 30:8-29 (West 2020); N.J. STAT. ANN. § 30:8-30 (West 2020); N.J. STAT. ANN. § 30:8-31 (West 2020); N.J. STAT. ANN. § 30:8-32 (West 2020); N.J. STAT. ANN. § 30:8-33 (West 2020); N.J. STAT. ANN. § 30:8-34 (West 2020); N.J. STAT. ANN. § 30:8-37 (West 2020); N.J. STAT. ANN. § 30:8-38 (West 2020); N.J. STAT. ANN. § 30:8-39 (West 2020); N.J. STAT. ANN. § 30:8-40 (West 2020); N.J. STAT. ANN. § 30:8-42 (West 2020); N.J. STAT. ANN. § 30:8-44 (West 2020); N.J. STAT. ANN. § 30:8-48 (West 2020); N.J. STAT. ANN. § 30:8-48.1 (West 2020); N.J. STAT. ANN. § 30:8-49 (West 2020); N.J. STAT. ANN. § 30:8-57 (West 2020); N.J. STAT. ANN. § 30:8-58 (West 2020); N.J. STAT. ANN. § 30:8-59 (West 2020); N.J. STAT. ANN. § 39:4-50 (West 2020); N.J. STAT. ANN. § 39:4-51 (West 2020); N.J. STAT. ANN. § 39:5-30e (West 2020); N.J. STAT. ANN. § 39:5-36 (West 2020); N.J. STAT. ANN. § 40:23-31 (West 2020); N.J. STAT. ANN. § 40A:9-117.6 (West 2020); N.J. STAT. ANN. § 44:1-147 (West 2020); N.J. STAT. ANN. § 44:4-108 (West 2020); N.J. STAT. ANN. § 53:1-14 (West 2020); N.J. STAT. ANN. § 53:1-20.3 (West 2020).

<sup>48</sup> N.J. STAT. ANN. § 30:4-82.5 (West 2020).

<sup>49</sup> N.J. STAT. ANN. § 30:4-91.3c at  $\pi$  1 (West 2020).

<sup>50</sup> N.J. STAT. ANN. §§ 30:4-82.7 and 30:4-91.3c (West 2020) (defining county correctional facility as a county jail, penitentiary, prison, or workhouse).

New Jersey State Association of Chiefs of Police; the New Jersey Police Traffic Officers Association; the Department of Agriculture; the New Jersey Racing Commission; the American Civil Liberties Union – New Jersey; the New Jersey Department of Health; the New Jersey Department of Corrections; the New Jersey Motor Vehicles Commission; the Superintendent of the State Police; the Department of Human Services; the Sheriff’s Association of New Jersey; the New Jersey Sheriffs’ Alliance; the Local Governmental Law Section of the New Jersey State Bar Association; the New Jersey Institute of Local Government Attorneys; the twenty-one County Counsels in New Jersey; and the Substance Abuse Coordinator for the Department of Human Services.

The New Jersey Department of Corrections (DOC) advised that “the Department has no objection to the proposed revisions to eliminate the term ‘workhouse’ in N[ew] J[ersey] Statutes.”<sup>51</sup> Further, the DOC stated that “reference[s] to ‘workhouse’ is outdated and inappropriate.”<sup>52</sup>

The Office of the Bergen County Counsel provided comments in support of the Commission’s work in this area.<sup>53</sup>

### **Conclusion**

The term “workhouse” is rooted in systemic racism. The presence of this term in New Jersey’s body of statutes ties back to the oppressive ideals of its colonial-era origins and is appropriate for elimination.

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<sup>51</sup> E-mail from the New Jersey Department of Corrections, to Samuel M. Silver, Deputy Director, New Jersey Law Revision Commission (Mar. 18, 2021, 11:54 AM EST) (on file with the NJLRC).

<sup>52</sup> *Id.*

<sup>53</sup> E-mail from the Office of the Bergen County Counsel, to Samuel M. Silver, Deputy Director, New Jersey Law Revision Commission (Mar. 22, 2021, 08:10 PM EST) (on file with the NJLRC).

## Appendix

The proposed modifications to the statutes that follow are shown with underlining and ~~strikethrough~~:

### **N.J.S. 2A:4A-23. Definition of delinquency**

a. As used in this act, “delinquency” means the commission of an act by a juvenile which if committed by an adult would constitute:

~~a.~~ (1) A crime;

~~b.~~ (2) A disorderly persons offense or petty disorderly persons offense; or

~~c.~~ (3) A violation of any other penal statute, ordinance or regulation.

b. The commission of the following shall not constitute delinquency as defined in this act:  
~~But, the commission of~~

(1) an act which constitutes a violation of chapter 3, 4, 6 or 8 of Title 39 of the Revised Statutes by a juvenile of any age;

(2) an act relating to the ownership or operation of a motorized bicycle which constitutes a violation of chapter 3 or 4 of Title 39 of the Revised Statutes by a juvenile of any age;

(3) an act which constitutes a violation of article 3 or 6 of chapter 4 of Title 39 of the Revised Statutes pertaining to pedestrians and bicycles, by a juvenile of any age;

(4) the commission of an act which constitutes a violation of P.L.1981, c. 318 (C.26:3D-1 et seq.), P.L.1981, c. 319 (C.26:3D-7 et seq.), P.L.1981, c. 320 (C.26:3D-15 et seq.), P.L.1985, c. 185 (C.26:3E-7 et seq.), P.L.1985, c. 186 (C.26:3D-32 et seq.), N.J.S.2C:33-13, P.L.1985, c. 318 (C.26:3D-38 et seq.), P.L.1985, c. 381 (C.26:3D-46 et seq.), or of any amendment or supplement thereof, by a juvenile of any age;

(5) an act which constitutes a violation of chapter 7 of Title 12 of the Revised Statutes relating to the regulation and registration of power vessels, by a juvenile of any age or section 2 of P.L.1987, c. 453 (C.12:7-61); or

(6) an act which constitutes a violation of a municipal ordinance enacted pursuant to section 2 of P.L.1992, c. 132 (C.40:48-2.52) pertaining to curfew ordinances, ~~shall not constitute delinquency as defined in this act.~~

c. The municipal court having jurisdiction over a case involving a violation by a juvenile of a section of Title 26 listed in this subsection, Title 40 listed in this subsection or N.J.S.2C:33-13, shall forward a copy of the record of conviction in that case to the Family Part intake service



of the county where the municipal court is located.

d. If a municipal court orders detention or imposes a term of imprisonment on a juvenile in connection with a violation of Title 39 of the Revised Statutes, chapter 7 of Title 12 of the Revised Statutes, Title 40 of the Revised Statutes or N.J.S.2C:33-13, that detention or term of imprisonment shall be served at a suitable juvenile institution and not at a county jail or other county workhouse county correctional facility in which adults are incarcerated.

**Credits:** L.1982, c. 77, § 24, eff. Dec. 31, 1983. Amended by L.1983, c. 404, § 1, eff. Dec. 30, 1983; L.1986, c. 16, § 1, eff. May 20, 1986; L.1986, c. 39, § 5, eff. June 26, 1986; L.1987, c. 401, § 1, eff. Jan. 14, 1988; L.1987, c. 453, § 3, eff. Jan. 19, 1989; L.1989, c. 125, § 1, eff. July 3, 1989; L.1991, c. 96, § 1, eff. April 9, 1991; L.1997, c. 383, § 1, eff. Jan. 19, 1998.

### Comments

The first paragraph of this statute has been designated subsection a. and the corresponding subsections have also been renumbered to make it easier to read. In its original form, paragraph two was cast as a single block paragraph. It has been renumbered to clarify those acts that do not constitute delinquency. The remaining paragraphs have been numbered sequentially.

The general definitions for the New Jersey Code of Juvenile Justice<sup>54</sup> does not contain a definition for the term “workhouse.” The proposed modification of this statute is modeled on the statute regarding the detention of juveniles in matters in which jurisdiction has been “waived” to the appropriate court and prosecuting authority.<sup>55</sup> This statute, N.J.S. 2A:4A-36, contains a presumption that juveniles shall be detained in a county juvenile detention facility.<sup>56</sup> Upon a showing of “good cause” the juvenile may be held in a “county jail” or other “*county correctional facility*.”<sup>57</sup> The term county correctional facility replaces the anachronistic term “workhouse.”

The term “county correctional facility” is defined three times in the New Jersey statutes.<sup>58</sup> The definitions set forth in Title 30 are identical. These definitions provide that a “county correctional facility” is either “...**a county jail, penitentiary, prison, or workhouse.**”<sup>59</sup> By contrast, in the Code of Criminal Justice “county correctional facility” means “any prison or other secure facility managed and operated by any county of this State in which adult offenders are incarcerated.”<sup>60</sup> It is worth noting that in 1976, all functions, powers and duties of the Commissioner of Institutions and Agencies and the Department of Institutions and Agencies with respect to county workhouses was transferred to the Department of Corrections.<sup>61</sup>

Since the term “county correctional facility” subsumes the term “workhouse”, it was used to replace that anachronistic term in the balance of this Report.

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<sup>54</sup> N.J. STAT. ANN. §§ 2A:4A-20 – 2A:4A-48 (West 2020).

<sup>55</sup> N.J. STAT. ANN. § 2A:4A-36 (West 2020).

<sup>56</sup> *Id.*

<sup>57</sup> *Id.*

<sup>58</sup> N.J. STAT. ANN. § 2C:29-10 (Electronic communication devices within correctional or detention facilities); N.J. STAT. ANN. § 30:4-82.7 (Definitions relating to the use of isolated confinement); and N.J. STAT. ANN. § 30:4-91.3c (Definitions).

<sup>59</sup> N.J. STAT. ANN. § 30:4-82.7 (West 2020) and N.J. STAT. ANN. § 30:4-91.3c. (West 2020).

<sup>60</sup> N.J. STAT. ANN. § 2C:29-10 (West 2020).

<sup>61</sup> N.J. STAT. ANN. § 30:1B-10 (West 2020).

## **N.J.S. 2A:67-4. Prisoner not to be removed except in certain cases**

No person committed to a prison or in the custody of an officer or other person for a criminal or supposed criminal matter shall be removed from such prison or custody into the custody of any other officer or person, except:

- a. By habeas corpus or other legal writ or process; or
- b. Where ~~he~~ the person is delivered to a constable or other inferior officer in accordance with law; or
- c. Where ~~he~~ the person is sent by order of a court, ~~or judge or magistrate~~<sup>62</sup> to a ~~workhouse or house of correction~~<sup>63</sup> county correctional facility; or
- d. Where ~~he~~ the person is removed to another place, within the county, for ~~his~~ trial or discharge in due course of law; or
- e. In case of sudden fire, ~~or~~ infection, or other necessity.

Credits: Rev.1877, p. 474, § 45 [C.S. p. 2649, § 45].

### **Comments**

The anachronistic term “workhouse” has been replaced with “county correctional facility.”<sup>64</sup>

The term “house of correction” is found in only two New Jersey statutes, N.J.S. 2A:67-4 and N.J.S. 2A:4-49.8 (Examination and treatment of venereal disease of inmates of institutions). The term, however, is not defined in either statute and has been removed the instant statute.

This statute has been rendered gender neutral.

## **N.J.S. 2C:43-10. Place of imprisonment; beginning sentences; transfers**

**a. Sentences for terms of 1 year or longer.** Except as provided in section 2C:43-5 and in subsection b. of this section, when a person is sentenced to imprisonment for any term of 1 year or greater, the court shall commit ~~him~~ the person to the custody of the Commissioner of the Department of Corrections for the term of ~~his~~ the person’s sentence and until released in accordance with law.

**b. County institution.** In any county in which a ~~county penitentiary or a county workhouse~~ county correctional facility is located, a person sentenced to imprisonment for a return not

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<sup>62</sup> See Final Report from Samuel M. Silver, Deputy Director, Addressing the Use of the Term Magistrate in the New Jersey Statutes to the New Jersey Law Revision Commission 1 (Jul. 30, 2020) (available at [www.njlrc.org](http://www.njlrc.org)).

<sup>63</sup> The term “house of correction” is not defined in the New Jersey statutes. This term is found in only one other statute, N.J.S. 2A:4-49.8 (Examination and treatment of venereal disease of inmates of institutions). The term is not defined in this statute.

<sup>64</sup> See generally, Comments to N.J.S. 2A:4A-23, *supra*.

exceeding 18 months may be committed to the ~~penitentiary or workhouse~~ county correctional facility of such county.

**c. Sentences for terms of less than 1 year.** When a person is sentenced to imprisonment for a term of less than 1 year, the court shall commit ~~him~~ the person ~~either to the common jail of the county, the county workhouse or the county penitentiary~~ county correctional facility for the term of ~~his~~ the person's sentence and until released in accordance with law. ~~In counties of the first class having a workhouse or penitentiary, however, no sentence exceeding 6 months shall be to the common jail of the county.~~

**d.** Aggregation of sentences when a person is sentenced to more than one term of imprisonment, and the sentences are to be consecutive, the terms shall be aggregated for the purpose of determining the place of imprisonment under subsections a., b., or c. of this section.

**e. Duties of sheriff and keeper on sentence to State Prison.** In all cases where the defendant, upon conviction, is sentenced by the court to imprisonment, for any term of 1 year or greater, the sheriff of the county or his lawful deputy shall, within 15 days transport him to the State Prison and there deliver him into the custody of the Commissioner of the Department of Corrections together with a copy of the sentence of the court ordering such imprisonment certified by the clerk of the court where the conviction was had, a copy of the court's statement of reasons for the sentence, and a copy of the presentence report or any presentence information used by the judge in determining sentence.

In every case at least 48 hours, exclusive of Sundays and legal holidays, shall elapse between the time of sentence and removal to the State Prison.

**f. Beginning sentences in county institutions.** Every person sentenced to the ~~county workhouse or penitentiary~~ county correctional facility shall be transferred to and confined therein within 10 days after the sentence.

**g. Transfer of persons sentenced to county jail, ~~penitentiary or workhouse~~ correctional facility from one to another thereof.** Every person sentenced to imprisonment in a ~~county jail, penitentiary or workhouse~~ county correctional facility may upon the application of the board of ~~chosen freeholders~~ county commissioners of such county and by order of the Superior Court, be transferred from any one of such county penal institutions to any other thereof. No such transfer or retransfer shall in any way affect the term of the original sentence of the person so transferred or retransferred.

**Credits:** L.1978, c. 95, § 2C:43-10, eff. Sept. 1, 1979. Amended by L.1979, c. 178, § 87, eff. Sept. 1, 1979.

#### Comments

- Subsections b., c., f., and g.

The anachronistic term “workhouse” has been replaced with “county correctional facility” in subsections b.,

c., f., and g.<sup>65</sup>

- *Common jail of the county*

The term “common jail of the county” appears in nine statutes.<sup>66</sup> This term, however, is not defined in any of those statutes. The reference to the “common jail of the county” has been removed from subsection c.

- *Chosen Freeholders*

In 2020, the Legislature changed the title of “chosen freeholder” to “county commissioner.”<sup>67</sup> The elimination of this term became effective January 01, 2021.<sup>68</sup> The updated terminology appears in subsection g.

## **N.J.S. 2C:46-4. Fines, assessments, penalties and restitution; collection; disposition**

... b. Except as provided in subsection c. with respect to fines imposed on appeals following convictions in municipal courts and except as provided in subsection i. with respect to restitution imposed under the provisions of P.L.1997, c. 253 (C.2C:43-3.4 et al.), all fines imposed by the Superior Court or otherwise imposed at the county level, shall be paid over by the officer entitled to collect the fines to:

(1) The county treasurer with respect to fines imposed on defendants who are sentenced to and serve a custodial term, including a term as a condition of probation, ~~in the county jail, workhouse, or penitentiary~~ a county correctional facility except where such county sentence is served concurrently with a sentence to a State institution; or

....

**Credits:** L.1979, c. 396, § 3, eff. Feb. 6, 1980. Amended by L.1981, c. 224, § 1, eff. July 20, 1981; L.1983, c. 73, § 1, eff. Feb. 24, 1983; L.1991, c. 91, § 146, eff. April 9, 1991; L.1991, c. 329, § 12, eff. Dec. 23, 1991; L.1993, c. 220, § 12, eff. Aug. 2, 1993; L.1995, c. 281, § 2, eff. Dec. 15, 1995; L.1996, c. 95, § 17, eff. Oct. 24, 1996; L.1997, c. 253, § 2, eff. Sept. 12, 1997; L.1999, c. 295, § 4, eff. Dec. 23, 1999; L.2001, c. 81, § 15, eff. May 4, 2001; L.2005, c. 73, § 5, eff. April 26, 2005; L.2009, c. 143, § 2, eff. Oct. 19, 2009; L.2013, c. 214, § 5, eff. July 1, 2014; L.2015, c. 55, § 1, eff. Dec. 1, 2015; L.2019, c. 363, § 6, eff. Nov. 1, 2020.

### **Comments**

The anachronistic term “workhouse” has been replaced with “county correctional facility.”<sup>69</sup> The terms county jail and penitentiary have also been removed from this statute.

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<sup>65</sup> See generally, Comments to N.J.S. 2A:4A-23, *supra*.

<sup>66</sup> N.J. STAT. ANN. § 2C:43-10 (West 2020) (Place of imprisonment; beginning sentences; transfers); N.J. STAT. ANN. § 4:23-14 (West 2020) (Failure to pay penalty; commitment); N.J. STAT. ANN. § 19:6-30 (West 2020) (Maintenance of regularity and order...); N.J. STAT. ANN. § 23:10-14 (West 2020) (Commitment for nonpayment of penalties); N.J. STAT. ANN. § 30:8-30 (West 2020) (Conversion of part of jail into workhouse); N.J. STAT. ANN. § 30:8-31 (West 2020) (Workhouse as part of jail taken over by chosen freeholders...); N.J. STAT. ANN. § 34:7-12 (West 2020) (Execution; commitment); N.J. STAT. ANN. § 39:5-25 (West 2020) (Arrest without warrant; detention of offender...); N.J. STAT. ANN. § 52:13-10 (West 2020) (Sentence; order of commitment).

<sup>67</sup> L.2020, c. 67, § 1, eff. Jan. 1, 2021. See N.J. STAT. ANN. § 1:1-2 (West 2021).

<sup>68</sup> *Id.*

<sup>69</sup> See generally, Comments to N.J.S. 2A:4A-23, *supra*.

**N.J.S. 4:7-55. Bringing into state hay or seeds containing Canada thistle; ~~misdemeanor~~<sup>70</sup>**

A person who shall knowingly and willfully bring into this state a bale of hay containing Canada thistle, or seeds of the same, or any grass or grain seeds with which the seeds of Canada thistle are mixed shall be deemed guilty of a ~~misdemeanor~~ disorderly persons offense, ~~and shall be liable to a fine not exceeding one hundred dollars, or to imprisonment in the county jail, workhouse or penitentiary of the county in which such conviction shall take place, or both fine and imprisonment may be imposed, in the discretion of the court.~~

**Credits:** L.1881, c. 197, § 1, p. 252 [C.S. p. 32, § 91].

**Comment**

The anachronistic term “workhouse” has been removed from this statute. The terms county jail and penitentiary have also been removed from this statute. In addition, the statute has been amended to reflect degree of crime. *See* N.J.S. 2C:1-4(d), N.J.S. 2C:1-5(b) and N.J.S. 2C:43-1(b).

**N.J.S. 5:5-69. Holding or conducting horse race meeting for stake, purse or reward, except in accordance with permit, as ~~misdemeanor~~ penalty; disposition of fines<sup>71</sup>**

Any person, partnership, association or corporation holding or conducting, or any person or persons aiding or abetting in the holding or conducting of any meeting within the State of New Jersey, at which the racing of horses shall be permitted for any stake, purse or reward, except in accordance with a permit duly issued by the commission as herein provided, shall be guilty of a ~~misdemeanor~~ fourth degree crime, ~~and upon conviction shall be punished for each such offense by a fine of not less than five thousand dollars (\$5,000.00) and not more than ten thousand dollars (\$10,000.00) or by imprisonment in the county jail or workhouse for not more than one year or by both such fine and imprisonment.~~ For the purpose of this section, each day of horse racing in violation of the provisions of this act shall be considered a separate and distinct offense. All fines paid into court by any person, partnership, association or corporation found guilty of violating this section shall be transmitted and paid over by the clerk of the court to the said commission.

**Credits:** L.1940, c. 17, p. 87, § 49, eff. March 18, 1940.

**Comment**

The terms “workhouse” and “county jail” have been removed from this statute. The statute has also been amended to reflect the degree of the crime. *See* N.J.S. 2C:1-4(d), N.J.S. 2C:1-5(b) and N.J.S. 2C:43-1(b).

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<sup>70</sup> *See* Final Report from Samuel M. Silver, Deputy Director, Addressing the Use of the Term Misdemeanor in the New Jersey Statutes to the New Jersey Law Revision Commission 1 (Mar. 21, 2019) (available at [www.njlrc.org](http://www.njlrc.org)).

<sup>71</sup> *Id.*

**N.J.S. 5:5-70. 5:5-70. Holding or conducting horse race meeting contrary to or in violation of statute as ~~misdemeanor~~ penalty; disposition of fines<sup>72</sup>**

Any person, partnership, association or corporation holding or conducting any meeting within the State of New Jersey, at which horse racing is permitted<sup>1</sup> held or conducted contrary to or in violation of any of the provisions and requirements of this act, or any person or persons aiding, assisting or abetting in the holding or conducting of such meeting, shall be guilty of a ~~misdemeanor~~ fourth degree crime and upon conviction thereof shall be punished for each such offense by a fine of not less than five thousand dollars (\$5,000.00) and not more than ten thousand dollars (\$10,000.00), or by imprisonment in the county jail or workhouse for not more than one year 18 months or by both such fine and imprisonment. For the purpose of this section each day of racing in violation of the provisions of this act shall be considered as a separate and distinct offense. All fines paid into court by any person, partnership, association or corporation found guilty of violating this section shall be transmitted and paid over by the clerk of the court to the said commission.

**Credits:** L.1940, c. 17, p. 88, § 50, eff. March 18, 1940.

**Comment**

The terms “workhouse” and “county jail” have been removed from this statute. The statute has also been amended to reflect degree of crime. See N.J.S. 2C:1-4(d), N.J.S. 2C:1-5(b) and N.J.S. 2C:43-1(b).

**N.J.S. 12:7-46. Operating or permitting another to operate vessel under influence of alcohol or drug; penalties; satisfaction of screening, evaluation, referral, and program requirements**

... c. If a court imposes a term of imprisonment under this section, the person may be sentenced to the ~~county jail, to the workhouse~~ county correctional facility of the county where the offense was committed, or to an inpatient rehabilitation program approved by the Chief Administrator of the New Jersey Motor Vehicle Commission and the Director of the Division of Alcoholism and Drug Abuse in the Department of Health and Senior Services [....]

**Credits:** L.1952, c. 157, p. 524, § 3, eff. May 9, 1952. Amended by L.1986, c. 39, § 4, eff. June 26, 1986, operative Dec. 23, 1986; L.1993, c. 230, § 2, eff. Feb. 1, 1994; L.1995, c. 401, § 37, eff. July 1, 1996; L.2004, c. 80, § 1, eff. July 2, 2004.

**Comment**

The terms “county jail” and “workhouse” have been removed from this statute and updated with the term county correctional facility.

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<sup>72</sup> *Id.*

**N.J.S. 12:7-58. Person convicted of operating vessel under influence of alcohol or drugs; completion of full term of sentence; work release; release to outpatient rehabilitation program**

a. A person who has been convicted of violating section 3 of P.L.1952, c. 157 (C. 12:7-46), and who has been imprisoned in a ~~county jail or workhouse~~ county correctional facility in the county in which the offense was committed, shall not be released after commitment until the term of imprisonment imposed has been served. A person imprisoned in the ~~county jail or workhouse~~ county correctional facility may, at the discretion of the court, be released on a work release program.

b. A warden or other officer having custody of the ~~county jail or workhouse~~ county correctional facility shall not release a person until the sentence has been served, except that a person may be released by the court on a work release program. A person sentenced to an inpatient rehabilitation program may be released by the court, upon the petition of the treating agency, to an outpatient rehabilitation program for the duration of the original sentence.

c. This section shall not be construed to interfere in any way with the operation of a writ of habeas corpus, a proceeding in lieu of the prerogative writ, or an appeal.

**Credits:** L.1986, c. 39, § 10, eff. June 26, 1986, operative Dec. 23, 1986. Amended by L.1995, c. 401, § 43, eff. July 1, 1996.

**Comment**

The terms “county jail” and “workhouse” have been removed from this statute and replaced with the term county correctional facility.

**N.J.S. 26:3-78. Additional penalty for second violation of same ordinance**

In case a defendant shall have been twice convicted, within the space of six months, of the violation of the same health ordinance or code and due proof of such fact is made, the court may, in addition to the imposition of the penalty prescribed by section 26:3-70 of this Title, cause the defendant to be imprisoned in the ~~county jail or workhouse~~ county correctional facility, ~~with or without hard labor, for any number of days not exceeding one for each dollar of the penalty.~~

**Credits:** Amended by L.1953, c. 26, § 26, eff. March 19, 1953.

**Comment**

The terms “county jail” and “workhouse” have been removed from this statute and replaced with the term county correctional facility. The reference to “hard labor” and the ambiguous penalty have also been removed from the statute.

## **N.J.S. 30:1-15. Inspection of local and private institutions; reports**

a. The commissioner and the State board shall have the power of visitation and inspection of all ~~county and~~ city jails or places of detention, ~~county or city workhouse, county penitentiaries, county correctional facilities,~~ county mental hospitals, ~~poor farms, almshouses,~~<sup>73</sup> county and municipal schools of detention, and privately maintained institutions and noninstitutional agencies for the care and treatment of persons with mental illness or developmental disabilities and persons who are blind, visually impaired, deaf blind, or hard of hearing, or other institutions, and noninstitutional agencies conducted for the benefit of persons with a physical or mental deficiency, or the furnishing of board, lodging or care for children.

b. The commissioner or his duly authorized agent, and any member of the State board shall be admitted to any and all parts of any such institutions at any time, for the purpose of inspecting and observing the physical condition thereof, the methods of management and operation thereof, the physical condition of the inmates, the care, treatment and discipline thereof, and also to determine whether such persons so admitted or committed are properly and adequately boarded, lodged, treated, cared for and maintained.

c. The commissioner and the State board may make such report with reference to the result of such observation and inspection and recommendation with reference thereto, as they may determine.

**Credits:** Amended by L.1965, c. 59, § 2, eff. Aug. 25, 1965; L.1968, c. 85, § 1, eff. June 21, 1968; L.1971, c. 384, § 11, eff. Jan. 5, 1972; L.1977, c. 63, § 11, eff. April 15, 1977; L.2010, c. 50, § 20, eff. Nov. 14, 2010.

### **Comment**

In its original form, this statute is one block paragraph. The proposed modifications include the incorporation of subsections.

The terms “city jails”, “county workhouses”, “city workhouses”, “county penitentiaries”, “poor farms”, “almshouses”, and “county penitentiaries” have been removed from the statute. The term “workhouse” has been replaced with “county correctional facility.” The reference to “hard labor” and the ambiguous penalty have also been removed from the statute.

## **N.J.S. 30:1B-10. Transfer of functions, powers and duties of department and commissioner of institutions and agencies with respect to local jails or places of detention; rules and regulations for treatment of inmates**

All functions, powers and duties of the Commissioner of Institutions and Agencies and the Department of Institutions and Agencies with respect to all county correctional facilities,<sup>74</sup> ~~and~~

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<sup>73</sup> See generally Final Report from John M. Cannel, Retired, Reviser of Statutes, Relating to Public Assistance Law to the New Jersey Law Revision Commission 1, 68 (Dec. 20, 2018) (available at [www.njlrc.org](http://www.njlrc.org)).

<sup>74</sup> See E-mail from the Office of the Bergen County Counsel, to Samuel M. Silver, Deputy Director, New Jersey Law Revision Commission (Mar. 22, 2021, 08:10 PM EST) (on file with the NJLRC).



~~city jails~~ municipal jails<sup>75</sup> or places of detention, ~~county or city workhouses~~, county penitentiaries, privately maintained institutions and noninstitutional agencies for the care, treatment, government and discipline of adult inmates are hereby transferred to the Department of Corrections established pursuant to section 2 of P.L.1976, c. 98 (C.30:1B-2). The commissioner may, in accordance with the Administrative Procedure Act, P.L.1968, c. 410 (C.52:14B-1 et seq.), promulgate such rules and regulations as he shall deem necessary to establish minimum standards for such care, treatment, government and discipline.

**Credits:** L.1976, c. 98, § 10, eff. Nov. 1, 1976. Amended by L.1995, c. 280, § 30, eff. Dec. 15, 1995.

#### **Comment**

The term “county jail” and “workhouse” have been removed from this statute. The reference to “county jail” has been replaced with the term “county correctional facility.” The term “city workhouse” has been removed from the statute and replaced with the term “municipal jail,” which means municipal jail, lockup, police station or other place maintained by a municipality for the detention of suspects or offenders.<sup>76</sup>

#### **N.J.S. 30:4-82.7. Definitions relating to the use of isolated confinement**

For the purposes of this act:

... “Commissioner” means the Commissioner of Corrections.

“Correctional facility” means any State correctional facility or county correctional facility, and any State, county, or private facility detaining persons pursuant to any intergovernmental service agreement or other contract with any State, county, or federal agency, including, but not limited to, United States Immigration and Customs Enforcement.

“County correctional facility” means a county jail, penitentiary, or prison, ~~or workhouse~~. ...

“Inmate” means a person confined in a correctional facility...

“State correctional facility” means 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).

**Credits:** L.2019, c. 160, § 3, eff. Aug. 1, 2020.

#### **Comment**

The term “workhouse” has been removed from this statute.

#### **N.J.S. 30:4-85.1. Transfer of persons committed to ~~county jails, workhouses, penitentiaries~~ county correctional facilities and correctional institutions; retransfer**

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<sup>75</sup> *Id.* at 2.

<sup>76</sup> *See* N.J. STAT. ANN. § 30:4-91.3c (West 2021).

a. Any inmate of any ~~county jail, workhouse or penitentiary~~ county correctional facility may be transferred to any appropriate existing correctional institution maintained by the State or which may hereafter be established or designated by the State board for the purposes herein provided. Such transfer shall be made on forms to be prescribed by the department, upon the request of the chief executive officer, warden, or keeper of any county correctional institution or upon the initiative of the commissioner in accordance with the formally adopted rules and regulations of the State board, after recommendation by a special classification review board appointed by the State board from among members of the department's central staff that such transfer should be made. No such transfer shall be made to the State Prison nor shall any such transfer operate as authority for the detention of any person for a term in excess of that fixed by the original sentence or order of commitment.

b. By the same method, any inmate of a correctional institution maintained by the State, on the initiative of the commissioner, may be transferred, with the consent of the board of ~~chosen freeholders~~ county commissioners, to an appropriate correctional institution in any one of the several counties.

c. In the event it is determined by the Commissioner of Corrections that a ~~county jail, workhouse or penitentiary~~ county correctional facility is not suitable or adequate to properly secure any inmate under sentence or charged with any criminal offense, he may transfer the inmate to any existing correctional institution maintained by the State, including the State Prison. The Commissioner of Corrections shall be empowered to determine a specific State correctional institution, including the State Prison, for the proper and secure incarceration of the inmate.

d. Any person so transferred may be retransferred to his place of original confinement or may be transferred to any existing ~~jail, workhouse or penitentiary~~ county correctional facility located in any one of the several counties. The cost of such transfer and the expense of maintaining the inmate in any State institution or an institution located in a county other than the county from which the inmate was originally committed and confined shall be borne by the State.

**Credits:** L.1948, c. 204, § 1, eff. July 2, 1948. Amended by L.1985, c. 165, § 1, eff. May 10, 1985.

#### **Comment**

The terms “jail”, “workhouse” or “penitentiary” have been removed from this statute and updated with the term county correctional facility.

##### *• Chosen Freeholders*

In 2020, the Legislature changed the title of “chosen freeholder” to “county commissioner.”<sup>77</sup> The elimination of this term became effective January 01, 2021.<sup>78</sup> The updated terminology appears in subsection b.

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<sup>77</sup> L.2020, c. 67, § 1, eff. Jan. 1, 2021. See N.J. STAT. ANN. § 1:1-2 (West 2021).

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

### **N.J.S. 30:4-91.3c. Definitions**

For the purposes of this act:

“County correctional facility” means a county jail, penitentiary, or prison, ~~or workhouse~~.

“Municipal jail” means a municipal jail, lockup, police station or other place maintained by a municipality for the detention of suspects or offenders.

“State correctional facility” means a State prison or other penal institution or a State-contracted half-way house.

“Wanted person check” means a determination of whether a person has an outstanding arrest warrant or pending charges by accessing the New Jersey Wanted Person System (NJPWS) and New Jersey Criminal Justice Information System (NJ CJIS) in the files of the National Crime Information Center (NCIC).

**Credits:** L.2003, c. 282, § 1, eff. Jan. 14, 2004.

#### **Comment**

The term “workhouse” has been removed from this statute.

### **N.J.S. 30:4-123.46. Application of act**

a. Except as otherwise provided by this act, this act shall apply to all persons now serving or hereafter sentenced or committed to State correctional facilities and to all persons now serving or hereafter sentenced to ~~county jails, workhouses or penitentiaries~~ a county correctional facility.

b. In the case of persons now serving sentences or committed, the board hereinafter established may postpone for a reasonable period of time not to exceed 6 months from the effective date of this act the application of this act in order to permit an orderly conversion to the system hereinafter established.

**Credits:** L.1979, c. 441, § 2, eff. April 21, 1980.

#### **Comment**

The references to “jails”, “workhouses”, and “penitentiaries” have been removed from this statute and replaced with a reference to county correctional facilities.

**N.J.S. 30:4-123.49. Assignment of cases; member as hearing officer; representatives of board**

a. The chairman of the board, after consulting with the board, shall assign any case not otherwise assigned, such as ~~county jail, workhouse or penitentiary~~ county correctional facility cases, to a special panel composed of any two members or any one member and one hearing officer as necessary for the efficient functioning of the board.

b. Nothing contained in this act shall be deemed to preclude a member of any board panel from exercising all the functions, powers, and duties of a hearing officer upon designation by the chairman; provided, however, that no member so designated shall participate in the disposition of a panel or board review of his initial decision.

c. (Deleted by amendment, P.L.2019, c. 363)

d. Representatives of the board or the chairman designated pursuant to this act may include employees of the board and employees of other agencies such as the Department of Corrections, provided that no employee of the Department of Corrections shall be so designated without the approval of the Commissioner of Corrections. Such representatives shall not participate in the disposition of parole cases.

**Credits:** L.1979, c. 441, § 5, eff. April 21, 1960. Amended by L.1982, c. 71, § 1, eff. July 16, 1982; L.1995, c. 280, § 36, eff. Dec. 15, 1995; L.2001, c. 79, § 17, eff. Sept. 1, 2001; L.2019, c. 363, § 9, eff. Nov. 1, 2020.

**Comment**

The references to “county jails”, “workhouses”, and “penitentiaries” have been removed from this statute and replaced with a reference to county correctional facility.

**N.J.S. 30:4-123.50. Office facilities and clerical assistance; cooperation in furnishing information and data to board; power of subpoena<sup>79</sup>; failure to respond; penalty**

a. The Department of Corrections shall provide such office facilities and clerical assistance as may be necessary to enable the board to perform properly its duties and to keep and maintain the records required herein.

b. The Department of Corrections, the chief executive officers and staffs of those facilities assigned to the Department of Corrections, the chief executive officers and staffs of the ~~county jails, workhouses, and penitentiaries~~ county correctional facilities and the chief executive officers and staffs of those facilities assigned to the Department of Human Services where inmates or parolees are housed shall render full and complete cooperation to the board in the matter of furnishing the board all pertinent data and information relating to particular inmates. It shall also be the duty of the clerk of the court from which the inmate was committed, and of county probation

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<sup>79</sup> See Final Report from Samuel M. Silver, Deputy Director, Relating to [the] Spelling of Subpoena in the New Jersey Statutes to the New Jersey Law Revision Commission 1 (Oct. 19, 2017) (available at [www.njlrc.org](http://www.njlrc.org)).

officers and other officials, to forward to the board any commitment order, any presentence report, and the sentencing court's written reasons for any sentence imposed. The board shall in addition have the power to compel the appearance of witnesses and the production of documentary evidence relevant to any proceedings before it. Failure to respond to any ~~subpena~~ subpoena shall carry the penalty prescribed by law for failure to so respond in the Superior Court.

**Credits:** L.1979, c. 441, § 6, eff. April 21, 1960.

#### **Comment**

The references to "county jails", "workhouses", and "penitentiaries" have been removed from this statute and replaced with the term "county correctional facility."

### **N.J.S. 30:4-123.51. Eligibility for parole; computation; notice to inmate; acknowledgement of receipt**

... g. Each adult inmate of a ~~county jail, workhouse, or penitentiary~~ county correctional facility shall become primarily eligible for parole upon service of 60 days of his aggregate sentence or as provided for in subsection a. of this section, whichever is greater. Whenever any such inmate's parole eligibility is within six months of the date of such sentence, the judge shall state such eligibility on the record which shall satisfy all public and inmate notice requirements. The chief executive officer of the institution in which county inmates are held shall generate all reports pursuant to subsection d. of section 10 of P.L.1979, c. 441 (C.30:4-123.54). The parole board shall have the authority to promulgate time periods applicable to the parole processing of inmates of county penal institutions, except that no inmate may be released prior to the primary eligibility date established by this subsection, unless consented to by the sentencing judge. No inmate sentenced to a specific term of years at the State Prison or the correctional institution for women shall become primarily eligible for parole until service of a full nine months of his aggregate sentence....

**Credits:** L.1979, c. 441, § 7, eff. April 21, 1960. Amended by L.1982, c. 71, § 2, eff. July 16, 1982; L.1997, c. 60, § 3, eff. April 3, 1997; L.1997, c. 214, § 2, eff. Aug. 19, 1997; L.1998, c. 73, § 2, eff. Dec. 1, 1998; L.2007, c. 204, § 6, eff. Dec. 17, 2007; L.2019, c. 363, § 10, eff. Nov. 1, 2020.

#### **Comment**

The reference to the "county jail", "workhouse", and "penitentiary" have been removed from this statute and replaced with the term "county correctional facility."

**N.J.S. 30:8-16.1. Facilities for therapy for ~~drug addicts~~ persons with substance abuse disorders<sup>80</sup> during confinement or after discharge; contracts to provide facilities; appropriations and expenditures**

It shall be lawful for the board of ~~chosen freeholders~~ county commissioners of any county in this State to establish and maintain facilities to provide services for therapy for ~~drug addicts or users~~ persons with substance abuse disorders while confined to the ~~jail, workhouse or penitentiary~~ county correctional facility of any such county. It shall also be lawful for such board to provide therapy for such drug addicts or users after discharge from the ~~jail, workhouse or penitentiary~~ county correctional facility. Such facilities may be provided as a part of the ~~jail, workhouse or penitentiary~~ county correctional facility, and at such other locations as the board shall determine. It shall also be lawful for such board to contract with any municipality or any other county to provide such needed facilities and services, and to pay the whole or any part of the cost of such facilities under such contract. Each board of ~~chosen freeholders~~ county commissioners is authorized to appropriate and expend the moneys necessary to carry out the purposes of this act.

**Credits:** L.1956, c. 214, § 1, eff. Jan. 9, 1957.

**Comment**

The terms “county jail”, “workhouse”, and “penitentiary” have been removed from this statute and replaced with the term “county correctional facility.”

• *Boards of Chosen Freeholders*

In 2020, the Legislature changed the title of “chosen freeholder” to “county commissioner.”<sup>81</sup> The elimination of this term became effective January 01, 2021.<sup>82</sup> The references to “chosen freeholders” have been removed from this statute and replaced with the term “county commissioners.”

**N.J.S. 30:8-16.2. Facilities for treatment of alcoholics<sup>83</sup> during confinement; appropriations and expenditures**

It shall be lawful for any board of ~~chosen freeholders~~ county commissioners in this State to erect and maintain as a part of its ~~jail, workhouse or penitentiary~~ county correctional facility, a

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<sup>80</sup> As the result of an update of New Jersey’s body of statutes to remove pejorative terms in 2015, based on the work of the Commission, the phrase “substance use disorder” is now the term used in New Jersey’s statutes.

<sup>81</sup> L.2020, c. 67, § 1, eff. Jan. 1, 2021. See N.J. STAT. ANN. § 1:1-2 (West 2021).

<sup>82</sup> *Id.*

<sup>83</sup> The terms alcoholic and alcoholism have many different meanings to many individuals. The term alcoholic may be considered pejorative and a decision regarding the removal of this term is worthwhile. In place of alcoholism, the American Addition Centers notes the use of “Alcohol Dependence Syndrome.” *Other Names for Alcoholism*, ALCOHOL REHAB.COM, <https://alcoholrehab.com/alcoholism/other-names-for-alcoholism/> (last visited Dec. 28., 2020, 5:41 PM). The National Institute of Health on Alcohol Abuse and Alcoholism suggests that the medical diagnosis for problem drinking that becomes severe is “alcohol use disorder” or “AUD.” *Alcohol Use Disorder*, NIAAA.GOV, <https://www.niaaa.nih.gov/alcohols-effects-health/alcohol-use-disorder> (last visited Dec. 28., 2020, 5:45 PM).

suitable building, buildings or additions for the treatment, while confined in such ~~jail, workhouse or penitentiary~~ county correctional facility, of inmates having a history of ~~alcoholism~~ an alcohol use disorder; such board shall have power to appropriate and expend the moneys necessary in its judgment for such purpose.

**Credits:** L.1956, c. 214, § 2, eff. Jan. 9, 1957.

#### Comment

The terms “county jail”, “workhouse”, and “penitentiary” have been removed from this statute and replaced with the term “county correctional facility.”

##### • *Boards of Chosen Freeholders*

In 2020, the Legislature changed the title of “chosen freeholder” to “county commissioner.”<sup>84</sup> The elimination of this term became effective January 01, 2021.<sup>85</sup> The references to “chosen freeholders” have been removed from this statute and replaced with the term “county commissioners.”

### **N.J.S. 30:8-16.7. County corrections advisory board; comprehensive plan; contents; application for assistance**

a. The governing body of each county participating in the financial assistance program under this act shall establish a 12-member county corrections advisory board. The membership of the board, appointed by the governing body of the county, shall be representative of the areas of criminal justice, the judiciary, corrections, education, social services, ethnic minorities, and the general public. The board shall be responsible for the development of a comprehensive plan for developing, implementing, operating, and improving county correctional services, which shall be submitted to the governing body of the county for its approval. The board, at least annually, shall make a formal recommendation to the governing body of the county concerning the implementation and operation of the plan for the forthcoming year.

b. In addition to such matters as are prescribed by rules and regulations promulgated by the commissioner, the comprehensive plan of each county shall provide for:

(1) The availability and use of a specific amount of bed space to be reserved for prisoners remanded by the State;

(2) The location and description of facilities that will be used by the county pursuant to the purposes of this act including, but not limited to, ~~county jails, penitentiaries, houses of detention, workhouse,~~ county correctional facilities, work release centers and halfway houses;

(3) Per diem reimbursement rates favorable to the State in recognition of its

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<sup>84</sup> L.2020, c. 67, § 1, eff. Jan. 1, 2021. See N.J. STAT. ANN. § 1:1-2 (West 2021).

<sup>85</sup> *Id.*

contribution to the construction or renovation costs of the county correctional facilities but which take into consideration the additional cost of State mandated programs;

(4) The centralized administration and control of county correctional services, taking into account established provisions for probation and parole services;

(5) The manner in which counties that jointly apply for participation under this act will operate a coordinated regional county corrections program; and

(6) A schedule of specific expenditures and priorities for the use of the grant moneys.

c. Any county applying for financial assistance made available under this act shall apply in a form and manner prescribed by the commissioner.

d. Prior to receiving a grant of financial assistance under this act, the governing body of each participating county shall submit a comprehensive plan for the development, implementation, operation and improvement of county correctional services to the commissioner for his approval.

**Credits:** L.1981, c. 498, § 5, eff. Jan. 12, 1982.

#### **Comment**

The terms “county jails”, “penitentiaries”, “houses of detention”, and “workhouse” have been removed from this statute and replaced with the term “county correctional facilities.”

### **N.J.S. 30:8-29. Additions to ~~county workhouses~~ county correctional facility; authority of ~~chosen freeholders~~ county commissioners to establish**

The board of ~~chosen freeholders~~ county commissioners of every county in this state may establish, build, or purchase a ~~workhouse~~ county correctional facility at such place in the county as such board shall think fit, or may build additions thereto as such board may deem necessary.

**Credits:** Rev.1877, p. 1251, § 1, amended by L.1909, c. 217, § 1, p. 314 [C.S. p. 2952, § 33].

#### **Comment**

The term “workhouse” has been removed from this statute and replaced with the term “county correctional facility.”

#### **• Boards of Chosen Freeholders**

In 2020, the Legislature changed the title of “chosen freeholder” to “county commissioner.”<sup>86</sup> The elimination of this term became effective January 01, 2021.<sup>87</sup> The reference to “chosen freeholders” has been removed from this

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<sup>86</sup> L.2020, c. 67, § 1, eff. Jan. 1, 2021. See N.J. STAT. ANN. § 1:1-2 (West 2021).

<sup>87</sup> *Id.*



statute and replaced with the term “county commissioners.”

### **N.J.S. 30:8-30. Conversion of part of jail into workhouse**

~~The board of chosen freeholders of any such county may convert so much of the common jail of the county as they deem proper into a workhouse, reserving sufficient room for the uses and purposes of the public jail.~~

**Credits:** Rev.1877, p. 1253, § 14 [C.S. p. 2954, § 44].

#### **Comment**

The statute is anachronistic and appropriate for repeal.

### **N.J.S. 30:8-31. Workhouse as part of jail taken over by chosen freeholders; work of prisoners in**

~~In every county where the board of chosen freeholders shall appoint a keeper or warden as provided by sections 30:8-19 and 30:8-20 of this title, such keeper or warden shall be the master of the workhouse in such county, if there be one, and such workhouse, or so much of it as shall be so declared by such board, shall be part of the common jail of such county. Such keeper or warden shall put and keep at such work as they are able to perform, at such place or places in the county as may be designated by such board, all persons who may be by law required to work during their continuance in his custody.~~

**Credits:** L.1887, c. 30, § 5, p. 44 [C.S. p. 2949, § 18].

#### **Comment**

The statute is anachronistic and appropriate for repeal.

### **N.J.S. 30:8-32. Management of workhouse; master and employees; rules and regulations**

~~A county workhouse shall be under the direction, superintendence and government of the board of chosen freeholders who may appoint a workhouse master and such other employees as may be necessary and make such regulations, ordinances and by laws, not contrary to the constitution or laws of this state, for the government of the workhouse and the confinement and labor of the inmates as they shall from time to time deem necessary or convenient.~~

**Credits:** Rev.1877, p. 1251, § 2 [C.S. p. 2953, § 34].

#### **Comment**

The statute is anachronistic and appropriate for repeal.

### **N.J.S. 30:8-33. Prisoners who may be sent to workhouse; hard labor**

~~In each county having a workhouse every person sentenced to imprisonment at hard labor for not more than six months shall be delivered by the sheriff or other proper officer of the county in which the conviction was had to the master of the workhouse, together with a copy of the sentence of the court, certified under the hand and seal of the clerk of the court or if there be no clerk, then under the hand and seal of the magistrate or judge imposing the sentence, and shall be there received and safely kept to hard labor, agreeably to such sentence, by the master of the workhouse for the term of his sentence and for such further time as the costs of prosecution and fine, if any, shall remain unpaid, unless the prisoner be sooner discharged in due course of law.~~

~~This section shall not apply to an offender whose sentence shall be imprisonment or the payment of a fine, or imprisonment and the payment of a fine, without the addition of hard labor in either case.~~

**Credits:** Amended by L.1953, c. 29, § 54, eff. March 19, 1953.

#### **Comment**

The statute is anachronistic and appropriate for repeal.

### **N.J.S. 30:8-34. Cost of keeping prisoners and expense of materials for their labor**

All disorderly persons and others ordered by law to be sent to a ~~county workhouse~~ county correctional facility shall be kept therein at the charge and expense of the county unless otherwise directed by law. The board of ~~chosen freeholders~~ county commissioners is authorized at its expense to procure suitable articles, things and materials for their labor, work and employment.

**Credits:** Rev.1877, p. 1251, § 4 [C.S. p. 2953, § 36].

#### **Comment**

The terms “jail” and “workhouse” have been removed from this statute and replaced with the term “county correctional facility.”

#### *• Boards of Chosen Freeholders*

In 2020, the Legislature changed the title of “chosen freeholder” to “county commissioner.”<sup>88</sup> The elimination of this term became effective January 01, 2021.<sup>89</sup> The references to “chosen freeholders” have been removed from this statute and replaced with the term “county commissioners.”

### **N.J.S. 30:8-37. Records to be kept by workhouse master; proceeds of labor**

~~The master of every workhouse shall keep an exact account of the time of the commitment and discharge of prisoners, their maintenance, the articles and materials provided for them to work, and the earnings and proceeds of their labor, and report the same to the board of chosen freeholders~~

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<sup>88</sup> L.2020, c. 67, § 1, eff. Jan. 1, 2021. See N.J. STAT. ANN. § 1:1-2 (West 2021).

<sup>89</sup> *Id.*

~~at its annual meeting and at other times when required. He shall pay over to the county treasurer the amount of such earnings and proceeds at the time of exhibiting his accounts, which moneys shall be appropriated to the uses of the county.~~

**Credits:** Rev.1877, p. 1252, § 9 [C.S. p. 2954, § 39].

#### **Comment**

The statute is anachronistic and appropriate for repeal.

### **N.J.S. 30:8-38. Penalty for neglect of duty by workhouse master**

~~If the master of the workhouse fails properly to account and pay over the proceeds of labor as required by section 30:8-37 of this title or fails to perform any duty required by law he shall for each offense forfeit fifty dollars to be recovered with costs in an action at law in the name and for the uses of the county.~~

**Credits:** Rev.1877, p. 1252, § 10 [C.S. p. 2954, § 40].

#### **Comment**

The statute is anachronistic and appropriate for repeal.

### **N.J.S. 30:8-39. Joint workhouses**

~~The boards of chosen freeholders of two or more counties may unite in establishing or acquiring and maintaining and operating a workhouse in common at such place as they shall agree, which shall be under their joint direction, superintendence and government and the cost and expense of which shall be apportioned by agreement.~~

~~Commitments to such joint workhouse from a county uniting to establish or maintain the same shall be of full force and effect notwithstanding the workhouse may be without the county.~~

~~The master of any such workhouse shall do the like services and duties and be under the like regulations and penalties as the masters of other workhouses.~~

**Credits:** Rev.1877, pp. 1252, 1253, §§ 11, 12, 13 [C.S. p. 2954, §§ 41, 42, 43].

#### **Comment**

The statute is anachronistic and appropriate for repeal.

### **N.J.S. 30:8-40. Employment of workhouse and penitentiary prisoners**

~~The board of chosen freeholders of any county may cause to be employed within the county, prisoners in any county workhouse or penitentiary under sentence, or committed for nonpayment of fine and costs or committed in default of bond for nonsupport of family, and the~~

~~product of their labor may be disposed of to the county or to any public institution of the county.~~

~~Nothing herein contained shall permit the employment of prisoners to take the place of free labor locked out or on strike, nor shall any prison labor be employed on any public improvement when free labor sufficient to carry on the work makes application for employment thereon.~~

**Credits:** L.1917, c. 157, § 1, p. 478 [1924 Suppl. § 102-45].

#### **Comment**

The statute is anachronistic and appropriate for repeal.

### **N.J.S. 30:8-42. Wage system for prisoners; workhouses county correctional facilities and penitentiaries; withdrawals to pay penalty assessments, restitution or fines**

The county governing body may establish a wage system for payment to prisoners for services in work carried on by such governing body or by any board, commission or institution that receives funds from the county. Such wage system may include all prisoners employed in any work or service necessary for the maintenance of the ~~workhouse or penitentiary~~ county correctional facility or their inmates. The wage allowed each prisoner shall not exceed fifty cents for each day of eight hours' work by such prisoners. In the payment of wages to prisoners' preference shall be given to those who have persons legally dependent upon them for support.

The county governing body is authorized to withdraw from moneys paid to prisoners' sufficient moneys, in an amount not to exceed one-third of the inmate's total income, as may be required to pay any penalty assessment, restitution or fine ordered as part of any sentence.

**Credits:** Amended by L.1985, c. 251, § 5, eff. July 31, 1985.

#### **Comment**

The terms "workhouse" and "penitentiary" have been removed and replaced with the term "county correctional facility."

### **N.J.S. 30:8-44. Approval of act; designation of county work release administrators; order for employment or vocational training; revocation; regulations**

In any county in which the governing body, by ordinance or resolution, as appropriate, approves the application of this act and designates a county work release administrator who may be the sheriff, warden or other person, a person convicted of any offense, except as otherwise provided in section 2 of P.L.1994, c. 153 (C.30:8-44.1) and sentenced to the ~~county jail, workhouse or penitentiary of the county~~ county correctional facility or a person incarcerated in the ~~county jail, workhouse or penitentiary~~ county correctional facility pursuant to the Rules of Court for contempt of an order or judgment issued by the Superior Court, Chancery Division, Family Part may be

placed at outside labor or permitted to attend a vocational training course operated or sponsored by a public or private agency in the county by order of the court by which the sentence or order of incarceration was imposed, or by the assignment judge of the county in which the sentence or order of incarceration was imposed, at the time such person is sentenced or incarcerated or at any time thereafter during the term of the sentence or term of incarceration. A work release order may include permission for release from confinement during specified hours to care for the offender's family. Such order may be revoked by the court which granted it at any time.

The Department of Corrections shall prepare and enforce regulations for the operation of this act in accordance with the provisions thereof.

**Credits:** L.1968, c. 372, § 1, eff. Dec. 27, 1968. Amended by L.1969, c. 243, § 1, eff. Dec. 22, 1969; L.1994, c. 153, § 1, eff. Dec. 9, 1994; L.1997, c. 425, § 1, eff. Jan. 19, 1998.

#### **Comment**

The terms "county jail", "workhouse" and "penitentiary" have been removed and replaced with the term "county correctional facility."

### **N.J.S. 30:8-48. Confinement in jail or ~~workhouse~~ county correctional facility**

Whenever such person is not employed, and between the hours or periods of employment, he shall be confined in ~~jail or workhouse~~ a county correctional facility.

**Credits:** L.1968, c. 372, § 5, eff. Dec. 27, 1968.

#### **Comment**

The terms "jail" and "workhouse" have been removed from this statute and replaced with the term "county correctional facility."

### **N.J.S. 30:8-48.1. Program for housing in institution or facility operated by nonprofit organization; ordinance or resolution; inmates; eligibility; transfers**

a. The governing body of any county which has adopted the provisions of the act to which this act is a supplement may, by ordinance or resolution, as appropriate, establish a program for the housing in an institution or facility operated by a nonprofit organization providing for the care, custody, subsistence, education, training, and welfare of inmates, of any person at outside labor or permitted to attend a vocational training course.

b. Upon the adoption of the ordinance or resolution any eligible inmate may be transferred to such nonprofit institution or facility by order of the sentencing judge at the time of sentencing, or by the sentencing judge or the assignment judge of the county at any time during the term of

the sentence. The court or the assignment judge ordering the transfer of an inmate shall do so on the basis of whether or not the transfer of the inmate to the facility or institution is appropriate to the needs and welfare of the inmate and other inmates, and to the security of the ~~county jail, workhouse or penitentiary~~ county correctional facility. The sentencing judge or the assignment judge shall designate the institution or facility to which the person is to be transferred and may, at any time, require that an inmate residing in the facility or institution be sent to the ~~county jail, workhouse or penitentiary~~ to serve the remainder of the sentence.

**Credits:** L.1981, c. 265, § 1, eff. Aug. 16, 1981.

#### **Comment**

The terms “county jail,” “workhouse,” and “penitentiary” have been removed from this statute and replaced with the term “county correctional facility.”

### **N.J.S. 30:8-49. Earnings; collection and disposition**

The earnings of such person shall be collected by the work release administrator and the employer shall be notified by registered mail, which notice shall include a copy of the order placing the person at outside labor. From such earnings, payment shall be made for the following purposes and in the order listed:

(1) Board and personal expenses of such person inside and outside of ~~jail or workhouse~~ the county correctional facility.

(2) Court costs, court-ordered penalty assessments, restitution and fines.

(3) After written notice to the appropriate welfare board the legally ascertained support of such person’s dependents.

(4) Payment of debts and legal obligations of such person acknowledged by him in writing and filed with the work administrator in such form as he shall specify. Any balance of such earnings that shall remain after the payment of the above shall be retained until the person’s discharge and after proper accounting, shall be paid to him.

**Credits:** L.1968, c. 372, § 6, eff. Dec. 27, 1968. Amended by L.1985, c. 251, § 7, eff. July 31, 1985.

#### **Comment**

The terms “jail” and “workhouse” have been removed from this statute and replaced with the term “county correctional facility.”

**N.J.S. 30:8-57. County Correctional Facility, ~~jail, workhouse~~ or penitentiary in willful and continuous disregard of minimum standards; phased restriction of admission of new inmates; order**

If the Commissioner of the Department of Corrections shall determine that a ~~county jail, workhouse or penitentiary~~ county correctional facility is in willful and continuous disregard of the minimum standards for such facilities promulgated by the department pursuant to section 10 of P.L.1976, c. 98 (C. 30:1B-10), he shall order a phased restriction of admission of new inmates to such facility. Upon such determination, the commissioner shall notify the county governing body of his decision to impose such a restriction, which notification shall include a written statement specifying the reasons therefor. If the commissioner shall determine that no appropriate action has been initiated within 60 days following such notification to correct the violations specified in the notice, he shall order the following:

a. That such ~~county jail, workhouse or penitentiary~~ county correctional facility shall immediately cease to admit persons sentenced to State penal facilities and awaiting transfer or admittance to such facilities;

b. That such ~~county jail, workhouse or penitentiary~~ county correctional facility shall, upon the expiration of 30 days after such order, immediately cease to admit persons sentenced to terms in said county penal facility; and,

c. That such ~~county jail, workhouse or penitentiary~~ county correctional facility shall, upon the expiration of 90 days after such order, immediately cease to admit all persons sent to said facility.

Any ~~county jail, workhouse or penitentiary~~ county correctional facility so restricted shall continue under such order until such time as the commissioner determines that the violations specified in the notice have been corrected or that the facility has initiated actions which will ensure the correction of said violations.

**Credits:** L.1979, c. 472, § 1, eff. Feb. 27, 1980.

#### **Comment**

The terms “county jail”, “workhouse” and “penitentiary” have been removed from this statute and replaced with the term “county correctional facility.”

#### **N.J.S. 30:8-58. Location of inmates within other penal facilities**

Upon the issuance of an order pursuant to section 1 of this act,<sup>1</sup> the commissioner shall locate inmates assigned to any facility so restricted by such order within other State or county penal facilities. The commissioner shall determine which other State or county penal facilities have adequate room for such inmates and shall assign them on the basis of available space; provided, however, that such assignments shall conform to all statutory requirements providing for the classification of inmates. Any State or county penal facilities ordered to accept such inmates shall

do so within 5 days following the issuance of an order pursuant to section 1 of this act. Any ~~county jail, workhouse or penitentiary~~ county correctional facility restricted by an order issued pursuant to section 1 of this act shall assume responsibility for all transportation of any person sent to another penal facility so long as such order shall remain in effect.

**Credits:** L.1979, c. 472, § 2, eff. Feb. 27, 1980.

<sup>1</sup> N.J.S.A. § 30:8-57

#### **Comment**

The terms “county jail”, “workhouse” and “penitentiary” have been removed from this statute and replaced with the term “county correctional facility.”

### **N.J.S. 30:8-59. Payment by county to department of corrections for reassigned inmates**

The governing body of a county whose ~~jail, workhouse or penitentiary~~ county correctional facility has been prohibited from accepting new inmates, and whose inmates have been assigned to other penal facilities pursuant to section 2 of this act,<sup>1</sup> shall appropriate an amount to repay the Department of Corrections for the custody, care, maintenance, and for all other services normally provided by the county to inmates of such facilities. For the first full calendar year, or portion thereof, following the effective date of this act said payment shall be \$60.00 a day for each inmate, and said sum shall increase 5% per annum each year thereafter. Any facility receiving inmates pursuant to section 2 of this act shall receive from the Department of Corrections \$60.00 per day for each inmate sent to the institution for the first full calendar year, or portion thereof, following the effective date of this act. Such sum shall increase by 5% per annum each year thereafter.

**Credits:** L.1979, c. 472, § 3, eff. Feb. 27, 1980.

<sup>1</sup> N.J.S.A. § 30:8-58.

#### **Comment**

The terms “jail”, “workhouse” and “penitentiary” have been removed from this statute and replaced with the term “county correctional facility.”

### **N.J.S. 39:4-50 Driving while intoxicated**

...

(3) For a third or subsequent violation, a person shall be subject to a fine of \$1,000, and shall be sentenced to imprisonment for a term of not less than 180 days in a ~~county jail or workhouse~~ county correctional facility, except that the court may lower such term for each day, not exceeding 90 days, served participating in a drug or alcohol inpatient rehabilitation program approved by the Intoxicated Driver Resource Center and shall thereafter forfeit the right to operate



a motor vehicle over the highways of this State for eight years.

...

If the driving privilege of any person is under revocation or suspension for a violation of any provision of this Title or Title 2C of the New Jersey Statutes at the time of any conviction for a violation of this section, the revocation or suspension period imposed shall commence as of the date of termination of the existing revocation or suspension period. In the case of any person who at the time of the imposition of sentence is less than 17 years of age, the forfeiture, suspension or revocation of the driving privilege imposed by the court under this section shall commence immediately, run through the offender's seventeenth birthday and continue from that date for the period set by the court pursuant to paragraphs (1) through (3) of this subsection. A court that imposes a term of imprisonment for a first or second offense under this section may sentence the person so convicted to the ~~county jail, to the workhouse~~ county correctional facility of the county wherein the offense was committed, to an inpatient rehabilitation program or to an Intoxicated Driver Resource Center or other facility approved by the chief of the Intoxicated Driving Program Unit in the Division of Mental Health and Addiction Services in the Department of Health. For a third or subsequent offense a person shall not serve a term of imprisonment at an Intoxicated Driver Resource Center as provided in subsection (f).

**Credits:** Amended by L.1952, c. 286, p. 972, § 1; L.1964, c. 137, § 1; L.1965, c. 134, § 1; L.1966, c. 141, § 1; L.1971, c. 103, § 1, eff. April 16, 1971; L.1977, c. 29, § 1; L.1981, c. 47, § 1, eff. Feb. 25, 1981; L.1981, c. 537, § 1; L.1982, c. 53, § 2, eff. July 1, 1982; L.1982, c. 58, § 1, eff. July 6, 1982; L.1983, c. 90, § 2, eff. March 11, 1983; L.1983, c. 129, § 1, eff. April 7, 1983; L.1983, c. 444, § 1; L.1984, c. 243, § 1, eff. Jan. 2, 1985; L.1986, c. 126, § 1, eff. Oct. 9, 1986; L.1993, c. 296, § 6; L.1994, c. 184, § 1, eff. Dec. 23, 1994; L.1995, c. 243, § 1, eff. April 1, 1996; L.1997, c. 277, § 1, eff. Dec. 30, 1997; L.1999, c. 185, § 4; L.1999, c. 417, § 7; L.2000, c. 83, § 1, eff. Sept. 30, 2000; L.2000, c. 117, § 1, eff. Sept. 13, 2000; L.2001, c. 12, § 1; L.2002, c. 34, § 17, eff. July 1, 2002; L.2003, c. 314, § 2, eff. Jan. 20, 2004; L.2003, c. 315, § 2, eff. Jan. 20, 2004; L.2004, c. 8, § 2, eff. April 26, 2004; L.2009, c. 201, § 1, eff. Jan. 14, 2010; L.2014, c. 54, § 2, eff. March 1, 2015; L.2019, c. 248, § 2, eff. Dec. 1, 2019.

#### Comment

The terms "county jail" and "workhouse" have been removed from this statute and replaced with the term "county correctional facility."

#### **N.J.S. 39:4-51. Sentence for violation of section 39:4-50 must be served; release on work release program**

A person who has been convicted of a first or second violation of section 39:4-50 of this Title, and in pursuance thereof has been imprisoned in a ~~county jail or workhouse~~ county correctional facility in the county in which the offense was committed, shall not, after commitment, be released therefrom until the term of imprisonment imposed has been served. A person imprisoned in the ~~county jail or workhouse~~ county correctional facility may in the discretion of

the court, be released on a work release program.

No warden or other officer having custody of the ~~county jail or workhouse~~ county correctional facility shall release therefrom a person so committed, unless the person has been released by the court on a work release program, until the sentence has been served. A person sentenced to an inpatient rehabilitation program may upon petition by the treating agency be released, by the court, to an outpatient rehabilitation program for the duration of the original sentence.

Nothing in this section shall be construed to interfere in any way with the operation of a writ of habeas corpus, a proceeding in lieu of the prerogative writs, or an appeal.

The chief administrator shall adopt such rules and regulations to effectuate the provisions of this section as he shall deem necessary.

**Credits:** Amended by L.1951, c. 23, p. 77, § 31; L.1977, c. 29, § 5; L.2003, c. 315, § 3, eff. Jan. 20, 2004.

#### **Comment**

The terms “county jail” and “workhouse” have been removed from this statute and replaced with the term “county correctional facility.”

### **N.J.S. 39:5-30e. Operation of motor vehicle during suspension; fine and imprisonment**

Unless otherwise provided, an habitual offender convicted of operating a motor vehicle or motorized bicycle, while suspended pursuant to this act, shall pay a fine of \$1,000.00 and may be sentenced to a term of imprisonment in a ~~county jail, penitentiary, or workhouse~~ county correctional facility, as the case may be, for a period of 30 days, provided, however, that if the habitual offender is involved in an accident resulting in bodily injury to another, he shall, in addition to the fine, be sentenced to a term of imprisonment for not less than 45 days.

**Credits:** L.1982, c. 85, § 5, eff. Oct. 1, 1982.

#### **Comment**

The terms “county jail”, “penitentiary” and “workhouse” have been removed from this statute and replaced with the term “county correctional facility.”

### **N.J.S. 39:5-36. Incarceration on default of payment of penalty or surcharge; court action upon default on payment of a penalty**

a. The court may incarcerate in the ~~county jail or workhouse~~ county correctional facility of the county where the offense was committed any person upon whom a penalty or surcharge pursuant to subsection f. of section 1 of P.L.2000, c. 75 (C.39:4-97.2) has been imposed for a violation of any of the provisions of this subtitle where the court finds that the person defaulted on payment of the penalty or surcharge pursuant to subsection f. of section 1 of P.L.2000, c. 75

(C.39:4-97.2) without good cause and that the default was willful. Incarceration ordered under this subsection shall not reduce the amount owed by the person in default. In no case shall such incarceration exceed one day for each \$50 of the penalty or surcharge so imposed, nor shall such incarceration exceed a period of 90 consecutive days.

b. Except where incarceration is ordered pursuant to subsection a. of this section, if the court finds that the person has defaulted on the payment of a penalty the court may take one or more of the following actions:

(1) the court shall take appropriate action to modify or establish a reasonable schedule for payment;

(2) if the court finds that the circumstances that warranted the penalty have changed or that it would be unjust to require payment, the court may revoke or suspend the penalty or the unpaid portion of the penalty; or

(3) if the defendant has served jail time for default on a penalty, the court may order that credit for each day of confinement be given against the amount owed. The amount of the credit shall be determined at the discretion of the court but shall be not less than \$50 for each day of confinement served.

When such person shall have been confined for a sufficient number of days to establish credits equal to the aggregate amount of such penalties and costs, and is not held by reason of any other sentence or commitment, he shall be discharged from such imprisonment by the officer in charge of the ~~county jail or workhouse~~ county correctional facility.

c. For the purposes of this section, “penalty” means any fine, statutorily-mandated assessment, surcharge, or other financial penalty imposed by a court pursuant to this subtitle, but does not include a surcharge imposed pursuant to subsection f. of section 1 of P.L.2000, c. 75 (C.39:4-97.2).

**Credits:** Amended by L.1942, c. 334, p. 1183, § 7, eff. Dec. 21, 1942; L.1963, c. 142, § 4, eff. Aug. 26, 1963; L.1975, c. 144, § 4, eff. July 7, 1975; L.2013, c. 180, § 2, eff. Jan. 13, 2014.

#### **Comment**

The terms “county jail”, and “workhouse” have been removed from this statute and replaced with the term “county correctional facility.”

### **N.J.S. 40:23-31. Reapportionment of unclaimed stone**

If the proper authorities of any municipality shall fail to demand in writing of the board of county commissioners ~~chosen freeholders or the chairman of the committee on workhouse of the board~~, and provide for the shipment of the same before the first days of April, July, September and

November in any year for the share or portion of crushed stone to which it shall be entitled at each quarterly distribution under the provisions of sections 40:23-28 to 40:23-33 of this title, then such portion or share shall immediately be reapportioned in the next succeeding quarterly distribution among the several municipalities of the counties as provided for in section 40:23-28 of this title; which said board of ~~chosen freeholders~~ county commissioners shall be required to furnish and deliver under the provisions of said sections 40:23-28 to 40:23-33, and shall not exceed ten thousand tons in any year.

Credits: L.1921, c. 72, § 3, p. 115 [1924 Suppl. § 48-\*1750G(3)].

#### Comment

This statute is the only statute that references the chairman of the committee on workhouse of the board. The reference has been removed as anachronistic.

#### • *Boards of Chosen Freeholders*

In 2020, the Legislature changed the title of “chosen freeholder” to “county commissioner.”<sup>90</sup> The elimination of this term became effective January 01, 2021.<sup>91</sup> The references to “chosen freeholders” have been removed from this statute and replaced with the term “county commissioners.”

### **N.J.S. 40A:9-117.6. Sheriff’s officers; appointment; duties**

The sheriff of each county shall, subject to the budget of the county, appoint such persons as may be necessary, to the position of sheriff’s officer, pursuant to the provisions of Title 11 of the Revised Statutes, where applicable, to perform the duties involved in attending the courts heretofore performed by court attendants, or in serving court processes, or in the investigation and apprehension of violators of the law, or in criminal identification, or in ballistics, or in any related work which the sheriff shall, from time to time prescribe and as shall be determined to be appropriate by the Civil Service Commission. Except as provided herein, no such officer shall be assigned to any penal institution, jail, penitentiary, ~~county correction center or workhouse~~ county correctional facility for the purpose of guarding, having custody of, or being charged with the rehabilitation of any inmate housed therein, except upon emergency conditions. Any sheriff’s officer who, on the effective date of this act, is assigned to any penal institution, jail, penitentiary, ~~county correction center, or workhouse~~ county correctional facility for the purpose of guarding, having custody of, or being charged with the rehabilitation of any inmate housed therein, may continue to serve in such capacity until such officer is reassigned or terminated, at which time the position shall be filled with an individual in a title appropriate to the duties to be performed.

**Credits:** L.1982, c. 133, § 1, eff. Sept. 14, 1982. Amended by L.1984, c. 35, § 3, eff. April 19, 1984.

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<sup>90</sup> L.2020, c. 67, § 1, eff. Jan. 1, 2021. See N.J. STAT. ANN. § 1:1-2 (West 2021).

<sup>91</sup> *Id.*

### Comment

This is the only statute that uses the term “county correction center.” This term, along with the term “workhouse” has been removed from the statute and replaced with the term “county correctional facility.”

#### **N.J.S. 44:1-147. Willful deserter as disorderly person; punishment<sup>92</sup>**

~~A husband or father who willfully deserts or refuses or neglects to provide for and maintain his wife or children, or any of them, or a mother who willfully deserts or refuses or neglects to provide for and maintain her children, or any of them, or a child who willfully deserts or refuses or neglects to provide for and maintain his parents, or either of them, is a disorderly person, and upon being so adjudged shall be committed to the workhouse or county jail county correctional facility of the county or of that county composing a district in which the person resided at the time of the desertion or failure to provide for a period not exceeding 60 days in the discretion of the court; provided, however, that the judge of any such court may order and direct that the sentence of imprisonment be served periodically, instead of consecutively, during periods of time between Friday at 6 P.M. and Monday at 8 A.M. or at other times or on other days, whenever he in his discretion determines the existence of proper circumstances and that the ends of justice will be served thereby. For the purposes of this act the person so committed shall be given credit for each day or fraction of a day to the nearest hour actually served.~~

**Credits:** Amended by L.1953, c. 42, p. 780, § 15, eff. March 19, 1953; L.1969, c. 149, § 1, eff. Aug. 4, 1969.

### Comment

This statute has been superseded by N.J.S. 2C:24-5.

#### **N.J.S. 44:4-108. Willful deserter as disorderly person; punishment<sup>93</sup>**

~~A husband or father who willfully deserts or refuses or neglects to provide for and maintain his wife or children, or any of them, or a mother who willfully deserts or refuses or neglects to provide for and maintain her children, or any of them, or a child who willfully deserts or refuses or neglects to provide for and maintain his parents, or either of them, is a disorderly person, and upon being so adjudged shall be committed to the workhouse or county jail of the county or of that county composing a district in which the person resided at the time of the desertion or failure to provide for a period not exceeding sixty days in the discretion of the court.~~

**Credits:** Amended by L.1953, c. 42, p. 785, § 28, eff. March 19, 1953.

### Comment

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<sup>92</sup> See Final Report from John M. Cannel, Retired, Reviser of Statutes, Relating to Public Assistance Law to the New Jersey Law Revision Commission 1, 68 (Dec. 20, 2018) (available at [www.njlrc.org](http://www.njlrc.org)).

<sup>93</sup> *Id.*

This statute is anachronistic and appropriate for repeal.

**N.J.S. 53:1-14. Record of fingerprints, etc., of persons confined in penal institutions; penal institutions to furnish**

The supervisor of the state bureau of identification may procure and file for record, fingerprints, photographs and other identification data of all persons confined in any ~~workhouse~~ county correctional facility, jail, reformatory, penitentiary or other penal institution and shall file for record such other information as he may receive from the law enforcement officers of the state and its subdivisions.

The wardens, jailers or keepers of ~~workhouses~~, jails, reformatories, penitentiaries or other penal institutions shall furnish the state bureau of identification with fingerprints and photographs of all prisoners who are or may be confined in the respective institutions, and shall also furnish such other information respecting such prisoners as may be requested.

**Credits:** L.1930, c. 65, §§ 2, 3, p. 280.

**Comment**

The term “workhouse” has been removed from this statute and replaced with the term “county correctional facility.”

**N.J.S. 53:1-20.3. Release of prisoners from penal or other institutions; notice to bureau; photographs**

It shall be the duty of the wardens of the ~~county jail~~ county correctional facilities in the various counties, ~~of the wardens of the county penitentiaries and workhouses in the various counties of the State and of the Principal Keeper of the State Prison~~ and of the wardens administrators or superintendents of the other State institutions to which prisoners are or may be committed upon the release of any prisoner in their respective charges to notify the Bureau of Identification of the county from which that prisoner was committed and the Bureau of Identification of the State Police of the fact of such prisoner’s release and the date of such release.

In the case of any such prisoner who was committed for a term of 5 years or more, it shall also be the duty of the ~~Principal Keeper~~ administrators or superintendents of the State Prison to forward to the Bureau of Identification of the county from which the prisoner was committed and to the Bureau of Identification of the State Police, at the time of giving the said notification, a photograph of the said prisoner taken within the 30-day period immediately preceding his release.

**Credits:** L.1940, c. 65, § 1. Amended by L.1956, c. 45, p. 93, § 1.

**Comment**

The term “county jail” has been replaced with the term “county correctional facilities.” The term “Principal Keeper” is anachronistic and undefined in the New Jersey statutes, it has been replaced with “administrator”.