

New Jersey Supreme Court Takes Unprecedented Action of Releasing Inmates from County Jails in Response to COVID-19 Crisis

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On March 22, 2020, the New Jersey Supreme Court issued an Order temporarily suspending and commuting county jail sentences for certain inmates in response to the COVID-19 pandemic and resulting public health crisis. With the support and consent of the New Jersey Attorney General, the County Prosecutors Association of New Jersey and the ACLU, the Court took the unprecedented action of releasing inmates confined to county jails in the state, the first action of its kind in the country but likely not the last.

The Order impacts low level offenders who have been sentenced to incarceration as a result of Municipal Court offenses, violations of probation, and criminal sentences of less than one year. No less than six medical experts throughout the country implored the Court to take this action as a necessary step to help stave off the public health crisis that will surely affect the entire country.

The Order directed that all individuals currently serving a sentence in county jail as a condition of probation or a municipal court conviction were to be released by no later than 6:00 am yesterday, March 24, 2020. The County Prosecutor or Attorney General had until 5:00 p.m. on March 23 to object to the release of any such inmate.

The Order further directs that all other individuals who are currently serving a sentence in county jail as a result of a more minor criminal offense are to be released no later than noon tomorrow, March 26, 2020. The County Prosecutor or Attorney General have until 8:00 a.m. on March 26 to file a written objection to the release of any such inmate.

The New Jersey Supreme Court has mandated a presumption that inmates will be released, unless the County Prosecutor or Attorney General can demonstrate that the inmate poses a significant risk to the public that cannot be effectively managed.

All warrants associated with an inmate released under this Order, except those associated with first-degree and second-degree crimes, will be suspended until ten days after the rescission of Executive Order 103, which announced the Public Health Emergency associated with COVID-19.

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Any no-contact orders that are normally related to domestic violence situations and suspensions of driving privileges will remain in full force for any released inmate. All released inmates must comply with all federal, state, and local laws, including directives mandating social distancing and self-quarantine. In-person reporting to probation will be converted to telephonic or video reporting.

The sentencing judge, after receiving input from counsel, will have discretion to commute remaining portions of a sentence that was imposed as a condition of probation or as a municipal court violation, or alternatively that sentence can be served when this public health crisis is over. Law enforcement and the various county prosecutors' offices will provide notice of the accelerated release of inmates to any victims, to the extent practicable.

No inmates who have tested positive for COVID-19 or have been identified by the county jail as presumptively positive for COVID-19 will be released. Instead, a plan will be developed to ensure that such inmates are isolated and receive medical treatment and/or mandatory self-quarantine.

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