

Governor Murphy Signs Executive Order 124 Releasing Certain Low-Level State Prison Inmates to Curtail Spread of COVID-19

Christopher D. Adams

Greenbaum, Rowe Smith & Davis LLP Client Alert

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In a follow-up to measures taken by the New Jersey Supreme Court last month when it released low-level county jail inmates, on April 10, 2020 New Jersey Governor Phil Murphy signed Executive Order 124, which creates a process for the New Jersey Department of Corrections to grant temporary reprieve to certain at-risk inmates during the COVID-19 crisis. New Jersey will now join the federal government and several other states in releasing certain state prison inmates in order to further curtail the spread of the virus.

Executive Order 124 creates an Emergency Medical Review Committee to make recommendations on which inmates should be placed on temporary home confinement through the statutory furlough authority of the Commissioner of Corrections.

The four categories for priority early release include:

- Individuals aged 60 years or older
- Individuals with high risk medical conditions, as determined by the Department of Corrections in consultation with the Department of Health
- Individuals whose sentences expire within the next three months
- Individuals who were denied parole within the last year

Contrary to some public mischaracterizations of this Order, individuals convicted of serious offenses, including murder, manslaughter, kidnapping, sexual assault, robbery, aggravated assault, or any offense subject to the No Early Release Act, will not be eligible for temporary reprieve.

The Emergency Medical Review Committee, which will be jointly chaired by the Commissioner of Corrections and the Chair of the State Parole Board, will be responsible for conducting individualized assessments that support their recommendations for home confinement. Prosecutors and victims will also have an opportunity to provide input on inmates under consideration for release.

In making its recommendations for home confinement, the Committee is required to take into consideration (a) a plan to supervise the inmate while on home confinement, (b) access to appropriate medical and social services, (c) access to appropriate housing, and (d) whether the inmate has a lower risk

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of contracting COVID-19 in the community than in Department of Corrections custody.

Ultimately, the Commissioner cannot grant home confinement unless satisfied that confinement appropriately safeguards the health and safety of the inmate and the public. In addition, and separate from the Commissioner's home confinement consideration, this Order requires the State Parole Board to expedite consideration for any parole-eligible individual on the list even if the individual was previously denied parole within the last year.

Please contact the author of this Alert, **Christopher D. Adams** cadams@greenbaumlaw.com | 732.476.2692, with questions or to discuss any personal circumstances in greater detail. Mr. Adams is Chair of the firm's **Criminal Defense & Regulatory Compliance Practice Group**.