SENATE, No. 1841

STATE OF NEW JERSEY

214th LEGISLATURE

INTRODUCED MAY 10, 2010

Sponsored by:
Senator ROBERT W. SINGER
District 30 (Burlington, Mercer, Monmouth and Ocean)
Assemblyman FREDERICK SCALERA
District 36 (Bergen, Essex and Passaic)
Assemblyman GORDON M. JOHNSON
District 37 (Bergen)

Co-Sponsored by:
Senator Ciesla

SYNOPSIS

Clarifies that DOC investigators are police officers.

CURRENT VERSION OF TEXT

As introduced.

(Sponsorship Updated As Of: 2/18/2011)
AN ACT concerning investigators in the Department of Corrections, amending P.L.1968, c.427 and N.J.S.2C:39-6, and supplementing chapter 3 of Title 11A of the New Jersey Statutes.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. Section 1 of P.L.1968, c.427 (C.2A:154-4) is amended to read as follows:
   1. a. All correction officers of the State of New Jersey[,] and parole officers employed by the State Parole Board [and investigators in the Department of Corrections,] who have been or who may hereafter be appointed or employed, shall, by virtue of such appointment or employment and in addition to any other power or authority, be empowered to act as officers for the detection, apprehension, arrest, and conviction of offenders against the law.
   
   b. All correctional police investigators in the Department of Corrections who have been or who may hereafter be appointed or employed, shall, by virtue of the appointment or employment and in addition to any other power or authority, be empowered to act as police officers for the detection, apprehension, arrest and conviction of offenders against the law.
   
   (cf: P.L.2001, c.79, s.14)

2. N.J.S.2C:39-6 is amended to read as follows:
   2C:39-6. a. Provided a person complies with the requirements of subsection j. of this section, N.J.S.2C:39-5 does not apply to:
   (1) Members of the Armed Forces of the United States or of the National Guard while actually on duty, or while traveling between places of duty and carrying authorized weapons in the manner prescribed by the appropriate military authorities;
   (2) Federal law enforcement officers, and any other federal officers and employees required to carry firearms in the performance of their official duties;
   (3) Members of the State Police and, under conditions prescribed by the superintendent, members of the Marine Law Enforcement Bureau of the Division of State Police;
   (4) A sheriff, undersheriff, sheriff’s officer, county prosecutor, assistant prosecutor, prosecutor’s detective or investigator, deputy attorney general or State investigator employed by the Division of Criminal Justice of the Department of Law and Public Safety, correctional police investigator employed by the Department of Corrections, investigator employed by the State Commission of Investigation, inspector of the Alcoholic Beverage Control

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.
Enforcement Bureau of the Division of State Police in the Department of Law and Public Safety authorized to carry such weapons by the Superintendent of State Police, State park police officer, or State conservation officer;

(5) Except as hereinafter provided, a prison or jail warden of any penal institution in this State or his deputies, or an employee of the Department of Corrections engaged in the interstate transportation of convicted offenders, while in the performance of his duties, and when required to possess the weapon by his superior officer, or a corrections officer or keeper of a penal institution in this State at all times while in the State of New Jersey, provided he annually passes an examination approved by the superintendent testing his proficiency in the handling of firearms;

(6) A civilian employee of the United States Government under the supervision of the commanding officer of any post, camp, station, base or other military or naval installation located in this State who is required, in the performance of his official duties, to carry firearms, and who is authorized to carry such firearms by said commanding officer, while in the actual performance of his official duties;

(7) (a) A regularly employed member, including a detective, of the police department of any county or municipality, or of any State, interstate, municipal or county park police force or boulevard police force, at all times while in the State of New Jersey;

(b) A special law enforcement officer authorized to carry a weapon as provided in subsection b. of section 7 of P.L.1985, c.439 (C.40A:14-146.14);

(c) An airport security officer or a special law enforcement officer appointed by the governing body of any county or municipality, except as provided in subsection (b) of this section, or by the commission, board or other body having control of a county park or airport or boulevard police force, while engaged in the actual performance of his official duties and when specifically authorized by the governing body to carry weapons;

(8) A full-time, paid member of a paid or part-paid fire department or force of any municipality who is assigned full-time or part-time to an arson investigation unit created pursuant to section 1 of P.L.1981, c.409 (C.40A:14-7.1) or to the county arson investigation unit in the county prosecutor's office, while either engaged in the actual performance of arson investigation duties or while actually on call to perform arson investigation duties and when specifically authorized by the governing body or the county prosecutor, as the case may be, to carry weapons. Prior to being permitted to carry a firearm, such a member shall take and successfully complete a firearms training course administered by the Police Training Commission pursuant to P.L.1961, c.56 (C.52:17B-66 et seq.), and shall annually qualify in the use of a
revolver or similar weapon prior to being permitted to carry a
firearm;
(9) A juvenile corrections officer in the employment of the
Juvenile Justice Commission established pursuant to section 2 of
P.L.1995, c.284 (C.52:17B-170) subject to the regulations
promulgated by the commission;
(10) A designated employee or designated licensed agent for a
nuclear power plant under license of the Nuclear Regulatory
Commission, while in the actual performance of his official duties,
if the federal licensee certifies that the designated employee or
designated licensed agent is assigned to perform site protection,
guard, armed response or armed escort duties and is appropriately
trained and qualified, as prescribed by federal regulation, to
perform those duties. Any firearm utilized by an employee or agent
for a nuclear power plant pursuant to this paragraph shall be
returned each day at the end of the employee's or agent's authorized
official duties to the employee's or agent's supervisor. All firearms
returned each day pursuant to this paragraph shall be stored in
locked containers located in a secure area;
(11) A county corrections officer at all times while in the State of
New Jersey, provided he annually passes an examination approved
by the superintendent testing his proficiency in the handling of
firearms.
   b. Subsections a., b. and c. of N.J.S.2C:39-5 do not apply to:
   (1) A law enforcement officer employed by a governmental
agency outside of the State of New Jersey while actually engaged in
his official duties, provided, however, that he has first notified the
superintendent or the chief law enforcement officer of the
municipality or the prosecutor of the county in which he is engaged;
or
   (2) A licensed dealer in firearms and his registered employees
during the course of their normal business while traveling to and
from their place of business and other places for the purpose of
demonstration, exhibition or delivery in connection with a sale,
provided, however, that the weapon is carried in the manner
specified in subsection g. of this section.
   c. Provided a person complies with the requirements of
subsection j. of this section, subsections b. and c. of N.J.S.2C:39-5
do not apply to:
   (1) A special agent of the Division of Taxation who has passed
an examination in an approved police training program testing
proficiency in the handling of any firearm which he may be
required to carry, while in the actual performance of his official
duties and while going to or from his place of duty, or any other
police officer, while in the actual performance of his official duties;
   (2) A State deputy conservation officer or a full-time employee
of the Division of Parks and Forestry having the power of arrest and
authorized to carry weapons, while in the actual performance of his official duties;

(3) (Deleted by amendment, P.L.1986, c.150.)

(4) A court attendant serving as such under appointment by the sheriff of the county or by the judge of any municipal court or other court of this State, while in the actual performance of his official duties;

(5) A guard in the employ of any railway express company, banking or building and loan or savings and loan institution of this State, while in the actual performance of his official duties;

(6) A member of a legally recognized military organization while actually under orders or while going to or from the prescribed place of meeting and carrying the weapons prescribed for drill, exercise or parade;

(7) A humane law enforcement officer of the New Jersey Society for the Prevention of Cruelty to Animals or of a county society for the prevention of cruelty to animals, while in the actual performance of his duties;

(8) An employee of a public utilities corporation actually engaged in the transportation of explosives;

(9) A railway policeman, except a transit police officer of the New Jersey Transit Police Department, at all times while in the State of New Jersey, provided that he has passed an approved police academy training program consisting of at least 280 hours. The training program shall include, but need not be limited to, the handling of firearms, community relations, and juvenile relations;

(10) A campus police officer appointed under P.L.1970, c.211 (C.18A:6-4.2 et seq.) at all times. Prior to being permitted to carry a firearm, a campus police officer shall take and successfully complete a firearms training course administered by the Police Training Commission, pursuant to P.L.1961, c.56 (C.52:17B-66 et seq.), and shall annually qualify in the use of a revolver or similar weapon prior to being permitted to carry a firearm;


(12) A transit police officer of the New Jersey Transit Police Department, at all times while in the State of New Jersey, provided the officer has satisfied the training requirements of the Police Training Commission, pursuant to subsection c. of section 2 of P.L.1989, c.291 (C.27:25-15.1);

(13) A parole officer employed by the State Parole Board at all times. Prior to being permitted to carry a firearm, a parole officer shall take and successfully complete a basic course for regular police officer training administered by the Police Training Commission, pursuant to P.L.1961, c.56 (C.52:17B-66 et seq.), and shall annually qualify in the use of a revolver or similar weapon prior to being permitted to carry a firearm;
(14) A Human Services police officer at all times while in the State of New Jersey, as authorized by the Commissioner of Human Services;

(15) A person or employee of any person who, pursuant to and as required by a contract with a governmental entity, supervises or transports persons charged with or convicted of an offense;

(16) A housing authority police officer appointed under P.L.1997, c.210 (C.40A:14-146.19 et al.) at all times while in the State of New Jersey; or

(17) A probation officer assigned to the "Probation Officer Community Safety Unit" created by section 2 of P.L.2001, c.362 (C.2B:10A-2) while in the actual performance of the probation officer's official duties. Prior to being permitted to carry a firearm, a probation officer shall take and successfully complete a basic course for regular police officer training administered by the Police Training Commission, pursuant to P.L.1961, c.56 (C.52:17B-66 et seq.), and shall annually qualify in the use of a revolver or similar weapon prior to being permitted to carry a firearm.

d. (1) Subsections c. and d. of N.J.S.2C:39-5 do not apply to antique firearms, provided that such antique firearms are unloaded or are being fired for the purposes of exhibition or demonstration at an authorized target range or in such other manner as has been approved in writing by the chief law enforcement officer of the municipality in which the exhibition or demonstration is held, or if not held on property under the control of a particular municipality, the superintendent.

(2) Subsection a. of N.J.S.2C:39-3 and subsection d. of N.J.S.2C:39-5 do not apply to an antique cannon that is capable of being fired but that is unloaded and immobile, provided that the antique cannon is possessed by (a) a scholastic institution, a museum, a municipality, a county or the State, or (b) a person who obtained a firearms purchaser identification card as specified in N.J.S.2C:58-3.

(3) Subsection a. of N.J.S.2C:39-3 and subsection d. of N.J.S.2C:39-5 do not apply to an unloaded antique cannon that is being transported by one eligible to possess it, in compliance with regulations the superintendent may promulgate, between its permanent location and place of purchase or repair.

(4) Subsection a. of N.J.S.2C:39-3 and subsection d. of N.J.S.2C:39-5 do not apply to antique cannons that are being loaded or fired by one eligible to possess an antique cannon, for purposes of exhibition or demonstration at an authorized target range or in the manner as has been approved in writing by the chief law enforcement officer of the municipality in which the exhibition or demonstration is held, or if not held on property under the control of a particular municipality, the superintendent, provided that the performer has given at least 30 days' notice to the superintendent.
(5) Subsection a. of N.J.S.2C:39-3 and subsection d. of N.J.S.2C:39-5 do not apply to the transportation of unloaded antique cannons directly to or from exhibitions or demonstrations authorized under paragraph (4) of subsection d. of this section, provided that the transportation is in compliance with safety regulations the superintendent may promulgate. Nor do those subsections apply to transportation directly to or from exhibitions or demonstrations authorized under the law of another jurisdiction, provided that the superintendent has been given 30 days' notice and that the transportation is in compliance with safety regulations the superintendent may promulgate.

e. Nothing in subsections b., c. and d. of N.J.S.2C:39-5 shall be construed to prevent a person keeping or carrying about his place of business, residence, premises or other land owned or possessed by him, any firearm, or from carrying the same, in the manner specified in subsection g. of this section, from any place of purchase to his residence or place of business, between his dwelling and his place of business, between one place of business or residence and another when moving, or between his dwelling or place of business and place where such firearms are repaired, for the purpose of repair. For the purposes of this section, a place of business shall be deemed to be a fixed location.

f. Nothing in subsections b., c. and d. of N.J.S.2C:39-5 shall be construed to prevent:

(1) A member of any rifle or pistol club organized in accordance with the rules prescribed by the National Board for the Promotion of Rifle Practice, in going to or from a place of target practice, carrying such firearms as are necessary for said target practice, provided that the club has filed a copy of its charter with the superintendent and annually submits a list of its members to the superintendent and provided further that the firearms are carried in the manner specified in subsection g. of this section;

(2) A person carrying a firearm or knife in the woods or fields or upon the waters of this State for the purpose of hunting, target practice or fishing, provided that the firearm or knife is legal and appropriate for hunting or fishing purposes in this State and he has in his possession a valid hunting license, or, with respect to fresh water fishing, a valid fishing license;

(3) A person transporting any firearm or knife while traveling:

(a) Directly to or from any place for the purpose of hunting or fishing, provided the person has in his possession a valid hunting or fishing license; or

(b) Directly to or from any target range, or other authorized place for the purpose of practice, match, target, trap or skeet shooting exhibitions, provided in all cases that during the course of the travel all firearms are carried in the manner specified in subsection g. of this section and the person has complied with all the provisions and requirements of Title 23 of the Revised Statutes
and any amendments thereto and all rules and regulations promulgated thereunder; or

(c) In the case of a firearm, directly to or from any exhibition or display of firearms which is sponsored by any law enforcement agency, any rifle or pistol club, or any firearms collectors club, for the purpose of displaying the firearms to the public or to the members of the organization or club, provided, however, that not less than 30 days prior to the exhibition or display, notice of the exhibition or display shall be given to the Superintendent of the State Police by the sponsoring organization or club, and the sponsor has complied with such reasonable safety regulations as the superintendent may promulgate. Any firearms transported pursuant to this section shall be transported in the manner specified in subsection g. of this section;

(4) A person from keeping or carrying about a private or commercial aircraft or any boat, or from transporting to or from such vessel for the purpose of installation or repair a visual distress signaling device approved by the United States Coast Guard.

(g) All weapons being transported under paragraph (2) of subsection b., subsection e., or paragraph (1) or (3) of subsection f. of this section shall be carried unloaded and contained in a closed and fastened case, gunbox, securely tied package, or locked in the trunk of the automobile in which it is being transported, and in the course of travel shall include only such deviations as are reasonably necessary under the circumstances.

(h) Nothing in subsection d. of N.J.S.2C:39-5 shall be construed to prevent any employee of a public utility, as defined in R.S.48:2-13, doing business in this State or any United States Postal Service employee, while in the actual performance of duties which specifically require regular and frequent visits to private premises, from possessing, carrying or using any device which projects, releases or emits any substance specified as being noninjurious to canines or other animals by the Commissioner of Health and Senior Services and which immobilizes only on a temporary basis and produces only temporary physical discomfort through being vaporized or otherwise dispensed in the air for the sole purpose of repelling canine or other animal attacks.

The device shall be used solely to repel only those canine or other animal attacks when the canines or other animals are not restrained in a fashion sufficient to allow the employee to properly perform his duties.

Any device used pursuant to this act shall be selected from a list of products, which consist of active and inert ingredients, permitted by the Commissioner of Health and Senior Services.

(i) Nothing in N.J.S.2C:39-5 shall be construed to prevent any person who is 18 years of age or older and who has not been convicted of a felony, from possession for the purpose of personal self-defense of one pocket-sized device which contains and releases
not more than three-quarters of an ounce of chemical substance not
ordinarily capable of lethal use or of inflicting serious bodily injury,
but rather, is intended to produce temporary physical discomfort or
disability through being vaporized or otherwise dispensed in the air.
Any person in possession of any device in violation of this
subsection shall be deemed and adjudged to be a disorderly person,
and upon conviction thereof, shall be punished by a fine of not less
than $100.00.

j. A person shall qualify for an exemption from the provisions
of N.J.S.2C:39-5, as specified under subsections a. and c. of this
section, if the person has satisfactorily completed a firearms
training course approved by the Police Training Commission.
Such exempt person shall not possess or carry a firearm until the
person has satisfactorily completed a firearms training course and
shall annually qualify in the use of a revolver or similar weapon.
For purposes of this subsection, a "firearms training course" means
a course of instruction in the safe use, maintenance and storage of
firearms which is approved by the Police Training Commission.
The commission shall approve a firearms training course if the
requirements of the course are substantially equivalent to the
requirements for firearms training provided by police training
courses which are certified under section 6 of P.L.1961, c.56
(C.52:17B-71). A person who is specified in paragraph (1), (2), (3)
or (6) of subsection a. of this section shall be exempt from the
requirements of this subsection.
k. Nothing in subsection d. of N.J.S.2C:39-5 shall be construed
to prevent any financial institution, or any duly authorized
personnel of the institution, from possessing, carrying or using for
the protection of money or property, any device which projects,
releases or emits tear gas or other substances intended to produce
temporary physical discomfort or temporary identification.
l. Nothing in subsection b. of N.J.S.2C:39-5 shall be construed
to prevent a law enforcement officer who retired in good standing,
including a retirement because of a disability pursuant to section 6
of P.L.1944, c.255 (C.43:16A-6), section 7 of P.L.1944, c.255
(C.43:16A-7), section 1 of P.L.1989, c.103 (C.43:16A-6.1) or any
substantially similar statute governing the disability retirement of
federal law enforcement officers, provided the officer was a
regularly employed, full-time law enforcement officer for an
aggregate of four or more years prior to his disability retirement and
further provided that the disability which constituted the basis for
the officer's retirement did not involve a certification that the officer
was mentally incapacitated for the performance of his usual law
enforcement duties and any other available duty in the department
which his employer was willing to assign to him or does not subject
that retired officer to any of the disabilities set forth in subsection c.
of N.J.S.2C:58-3 which would disqualify the retired officer from
possessing or carrying a firearm, who semi-annually qualifies in the
use of the handgun he is permitted to carry in accordance with the
to subsection j. of this section and pays the actual costs
associated with those semi-annual qualifications, who is 75 years of
age or younger, and who was regularly employed as a full-time
member of the State Police; a full-time member of an interstate
police force; a full-time member of a county or municipal police
department in this State; a full-time member of a State law
enforcement agency; a full-time sheriff, undersheriff or sheriff's
officer of a county of this State; a full-time State or county
police; a full-time county police officer; a full-time
county police department; a full-time
county prosecutor's detective or investigator; a full-time
federal law enforcement officer; or is a qualified retired law
enforcement officer, as used in the federal "Law Enforcement
State from carrying a handgun in the same manner as law
enforcement officers exempted under paragraph (7) of subsection a.
of this section under the conditions provided herein:

(1) The retired law enforcement officer shall make application
in writing to the Superintendent of State Police for approval to carry
a handgun for one year. An application for annual renewal shall be
submitted in the same manner.

(2) Upon receipt of the written application of the retired law
enforcement officer, the superintendent shall request a verification
of service from the chief law enforcement officer of the
organization in which the retired officer was last regularly
employed as a full-time law enforcement officer prior to retiring.
The verification of service shall include:
(a) The name and address of the retired officer;
(b) The date that the retired officer was hired and the date that
the officer retired;
(c) A list of all handguns known to be registered to that officer;
(d) A statement that, to the reasonable knowledge of the chief
law enforcement officer, the retired officer is not subject to any of
the restrictions set forth in subsection c. of N.J.S.2C:58-3; and
(e) A statement that the officer retired in good standing.

(3) If the superintendent approves a retired officer's application
or reapplication to carry a handgun pursuant to the provisions of
this subsection, the superintendent shall notify in writing the chief
law enforcement officer of the municipality wherein that retired
officer resides. In the event the retired officer resides in a
municipality which has no chief law enforcement officer or law
enforcement agency, the superintendent shall maintain a record of
the approval.

(4) The superintendent shall issue to an approved retired officer
an identification card permitting the retired officer to carry a
handgun pursuant to this subsection. This identification card shall
be valid for one year from the date of issuance and shall be valid
throughout the State. The identification card shall not be
transferable to any other person. The identification card shall be
carried at all times on the person of the retired officer while the
retired officer is carrying a handgun. The retired officer shall
produce the identification card for review on the demand of any law
enforcement officer or authority.

(5) Any person aggrieved by the denial of the superintendent of
approval for a permit to carry a handgun pursuant to this subsection
may request a hearing in the Superior Court of New Jersey in the
county in which he resides by filing a written request for such a
hearing within 30 days of the denial. Copies of the request shall be
served upon the superintendent and the county prosecutor. The
hearing shall be held within 30 days of the filing of the request, and
no formal pleading or filing fee shall be required. Appeals from the
determination of such a hearing shall be in accordance with law and
the rules governing the courts of this State.

(6) A judge of the Superior Court may revoke a retired officer's
privilege to carry a handgun pursuant to this subsection for good
cause shown on the application of any interested person. A person
who becomes subject to any of the disabilities set forth in
subsection c. of N.J.S.2C:58-3 shall surrender, as prescribed by the
superintendent, his identification card issued under paragraph (4) of
this subsection to the chief law enforcement officer of the
municipality wherein he resides or the superintendent, and shall be
permanently disqualified to carry a handgun under this subsection.

(7) The superintendent may charge a reasonable application fee
to retired officers to offset any costs associated with administering
the application process set forth in this subsection.

m. Nothing in subsection d. of N.J.S.2C:39-5 shall be construed
to prevent duly authorized personnel of the New Jersey Division of
Fish and Wildlife, while in the actual performance of duties, from
possessing, transporting or using any device that projects, releases
or emits any substance specified as being non-injurious to wildlife
by the Director of the Division of Animal Health in the Department
of Agriculture, and which may immobilize wildlife and produces
only temporary physical discomfort through being vaporized or
otherwise dispensed in the air for the purpose of repelling bear or
other animal attacks or for the aversive conditioning of wildlife.

n. Nothing in subsection b., c., d. or e. of N.J.S.2C:39-5 shall
be construed to prevent duly authorized personnel of the New
Jersey Division of Fish and Wildlife, while in the actual
performance of duties, from possessing, transporting or using hand
held pistol-like devices, rifles or shotguns that launch pyrotechnic
missiles for the sole purpose of frightening, hazing or aversive
conditioning of nuisance or depredating wildlife; from possessing,
transporting or using rifles, pistols or similar devices for the sole
purpose of chemically immobilizing wild or non-domestic animals;
or, provided the duly authorized person complies with the
requirements of subsection j. of this section, from possessing, 
transporting or using rifles or shotguns, upon completion of a Police 
Training Commission approved training course, in order to dispatch 
injured or dangerous animals or for non-lethal use for the purpose 
of frightening, hazing or aversive conditioning of nuisance or 
depredating wildlife. 
(cf: P.L.2007, c.314, s.1)

3. (New section) The Chairperson of the Civil Service 
Commission shall effectuate the following title changes in the 
career service:

a. Investigator Secured Facilities shall be re-titled as 
correctional police investigator;

b. Senior Investigator Secured Facilities shall be re-titled as 
correctional police investigator;

c. Principle Investigator Secured Facilities shall be re-titled as 
correctional police investigator;

d. Assistant Chief Investigator Secured Facilities shall be re- 
titled as correctional police investigator;

e. Chief Investigator Secured Facilities shall be re-titled as 
correctional police investigator.

The title changes authorized under this section shall apply to all 
correctional police investigators employed by the New Jersey 
Department of Corrections.

4. This act shall take effect immediately.

STATEMENT

This bill would clarify that investigators in the Department of 
Corrections are police officers and renames these officers 
“correctional police investigators” under the State’s civil service 
system.

Under current law, Department of Corrections investigators are 
authorized to act as officers to detect, apprehend, arrest, and convict 
offenders who violate the law. They receive the same basic training 
as corrections officers, as well as firearms training approved by the 
Police Training Commission, but are additionally required to 
complete a basic investigations course through the Division of 
Criminal Justice in the Department of Law and Public Safety.

These investigators perform the same basic functions as local 
police officers. They conduct administrative and criminal 
investigations of inmates in State correctional facilities, correctional 
staff, contractors, volunteers, and visitors. They investigate 
criminal activity initiated within these correctional facilities, help 
protect the public from organized crime and street gangs, and often 
work cooperatively with other police agencies.
It is the sponsor’s intent that these correctional police
investigators be recognized as the police officers that they are.
Moreover, renaming them under the civil service system may make
them eligible for additional law enforcement grants.