

September 17, 1998

**SENATE BILL NO. 891
(SECOND REPRINT)**

To the Senate:

Pursuant to Article V, Section 1, Paragraph 14 of the New Jersey Constitution, I am returning Senate Bill No. 891 (Second Reprint) with my recommendation for reconsideration.

A. Summary of the Bill

This bill requires courts to order treatment in jails or prisons for mentally ill defendants who are found competent to stand trial after the issue of their fitness to proceed has been raised in court, but who are in need of mental health services and do not require treatment in a psychiatric facility. Under the bill, the Department of Corrections (the Department) is charged with providing or arranging for these services. The bill also requires the Department to provide mental health services to State-sentenced inmates who are mentally ill, but do not require institutional psychiatric treatment.

B. Recommended Action

I commend the sponsors on the goal of this bill to ensure that incarcerated defendants and State-sentenced inmates receive necessary mental health services in an appropriate secure venue. I am concerned, however, with the bill's requirement that the Department provide or arrange for these services for defendants found competent to stand trial. These defendants are not State-sentenced inmates, but, rather, are pretrial detainees housed in county correctional facilities. I am advised by my Chief Counsel, the Attorney General and the Commissioner of Corrections that current law requires the county correctional facilities to provide an appropriate level of medical and health services, including mental health services, to the prisoners they house. It would be an inefficient use of public resources to require the Department to provide or arrange for mental health services for defendants found mentally competent to stand trial in each of the twenty-one counties. Rather, it is more practical and efficient for the counties to continue to provide these services in the context of all the medical and health services they provide to inmates housed in county facilities, and for the Department to reimburse the counties for their costs. Accordingly, I recommend a revision to delete the requirement that the Department provide or arrange for treatment for mentally ill defendants in jail or prison who have been found competent to stand trial, and to replace it with a requirement that the Department reimburse the county facilities for mental health services provided to these defendants.

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

Therefore, I herewith return Senate Bill No. 891 (Second Reprint) and recommend that it be amended as follows:

Page 2. Section 1. Lines 38-39:

Delete "The Department of Corrections shall provide or arrange for this treatment" and insert "Where the defendant is incarcerated in a county correctional facility, the county shall provide or arrange for this treatment. The Department of Corrections shall reimburse the county for the reasonable costs of treatment, as determined by the Commissioner of Corrections, provided that the county has submitted to the commissioner such documentation and verification as the commissioner shall require"

Page 3. Section 3, Line 45:

After "enactment" insert ", except that the Commissioner of Corrections may take such anticipatory action as shall be necessary to effectuate the purposes of this act"

Respectfully,

/s/ Christine Todd Whitman

GOVERNOR

[seal]

Attest:

/s/ John J. Farmer, Jr.

Chief Counsel to the Governor