

[First Reprint]

## **ASSEMBLY, No. 1254**

# **STATE OF NEW JERSEY**

## **219th LEGISLATURE**

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

**Sponsored by:**

**Assemblyman GARY S. SCHAER**

**District 36 (Bergen and Passaic)**

**Assemblyman JAMEL C. HOLLEY**

**District 20 (Union)**

**Assemblywoman VERLINA REYNOLDS-JACKSON**

**District 15 (Hunterdon and Mercer)**

**Co-Sponsored by:**

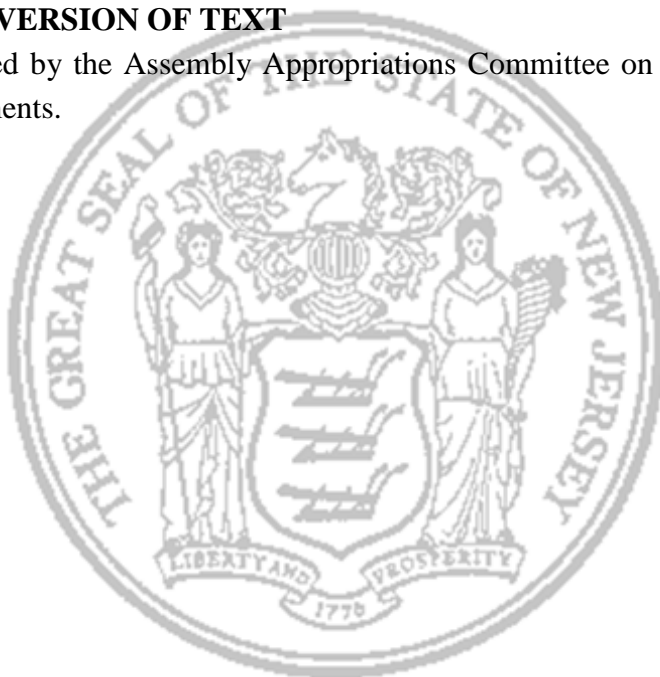
**Assemblywoman Speight**

**SYNOPSIS**

Establishes geriatric parole for certain eligible inmates.

**CURRENT VERSION OF TEXT**

As reported by the Assembly Appropriations Committee on July 27, 2020, with amendments.



**(Sponsorship Updated As Of: 7/30/2020)**

1 AN ACT concerning parole, amending P.L.1979, c.441, and  
2 supplementing Title 30 of the Revised Statutes.

3

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

6

7 1. Section 7 of P.L.1979, c.441 (C.30:4-123.51) is amended as  
8 follows:

9 7. a. Each adult inmate sentenced to a term of incarceration in  
10 a county penal institution, or to a specific term of years at the State  
11 Prison or the correctional institution for women shall become  
12 primarily eligible for parole after having served any judicial or  
13 statutory mandatory minimum term, or one-third of the sentence  
14 imposed where no mandatory minimum term has been imposed less  
15 commutation time for good behavior pursuant to N.J.S.2A:164-24  
16 or R.S.30:4-140 and credits for diligent application to work and  
17 other institutional assignments pursuant to P.L.1972, c.115 (C.30:8-  
18 28.1 et seq.) or R.S.30:4-92. Consistent with the provisions of the  
19 New Jersey Code of Criminal Justice (N.J.S.2C:11-3, 2C:14-6,  
20 2C:43-6, 2C:43-7), commutation and work credits shall not in any  
21 way reduce any judicial or statutory mandatory minimum term and  
22 such credits accrued shall only be awarded subsequent to the  
23 expiration of the term.

24 b. Each adult inmate sentenced to a term of life imprisonment  
25 shall become primarily eligible for parole after having served any  
26 judicial or statutory mandatory minimum term, or 25 years where  
27 no mandatory minimum term has been imposed less commutation  
28 time for good behavior and credits for diligent application to work  
29 and other institutional assignments. If an inmate sentenced to a  
30 specific term or terms of years is eligible for parole on a date later  
31 than the date upon which he would be eligible if a life sentence had  
32 been imposed, then in such case the inmate shall be eligible for  
33 parole after having served 25 years, less commutation time for good  
34 behavior and credits for diligent application to work and other  
35 institutional assignments. Consistent with the provisions of the  
36 New Jersey Code of Criminal Justice (N.J.S.2C:11-3, 2C:14-6,  
37 2C:43-6, 2C:43-7), commutation and work credits shall not in any  
38 way reduce any judicial or statutory mandatory minimum term and  
39 such credits accrued shall only be awarded subsequent to the  
40 expiration of the term.

41 c. Each adult inmate sentenced to a specific term of years  
42 pursuant to the "Controlled Dangerous Substances Act," P.L.1970,  
43 c.226 (C.24:21-1 et al.) shall become primarily eligible for parole  
44 after having served one-third of the sentence imposed less  
45 commutation time for good behavior and credits for diligent

**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.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup>Assembly AAP committee amendments adopted July 27, 2020.

1 application to work and other institutional assignments.

2 d. Each adult inmate sentenced to an indeterminate term of  
3 years as a young adult offender pursuant to N.J.S.2C:43-5 shall  
4 become primarily eligible for parole consideration pursuant to a  
5 schedule of primary eligibility dates developed by the board, less  
6 adjustment for program participation. In no case shall the board  
7 schedule require that the primary parole eligibility date for a young  
8 adult offender be greater than the primary parole eligibility date  
9 required pursuant to this section for the presumptive term for the  
10 crime authorized pursuant to subsection f. of N.J.S.2C:44-1.

11 e. Each adult inmate sentenced for an offense specified in  
12 N.J.S.2C:47-1 shall become primarily eligible for parole as follows:

13 (1) If the court finds that the offender's conduct was not  
14 characterized by a pattern of repetitive, compulsive behavior or  
15 finds that the offender is not amenable to sex offender treatment, or  
16 if after sentencing the Department of Corrections in its most recent  
17 examination determines that the offender is not amenable to sex  
18 offender treatment, the offender shall become primarily eligible for  
19 parole after having served any judicial or statutory mandatory  
20 minimum term or one-third of the sentence imposed where no  
21 mandatory minimum term has been imposed. Neither such term  
22 shall be reduced by commutation time for good behavior pursuant  
23 to R.S.30:4-140 or credits for diligent application to work and other  
24 institutional assignments pursuant to R.S.30:4-92.

25 (2) **【All other】** Young adult offenders shall be eligible for  
26 parole pursuant to the provisions of N.J.S.2C:47-5, except no  
27 offender shall become primarily eligible for parole prior to the  
28 expiration of any judicial or statutory mandatory minimum term.

29 f. **【Each juvenile inmate committed to an indeterminate term**  
30 **shall be immediately eligible for parole.】** (P.L. , c ) (pending  
31 before the Legislature as this bill)

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

1 become primarily eligible for parole until service of a full nine  
2 months of his aggregate sentence.

3 h. When an inmate is sentenced to more than one term of  
4 imprisonment, the primary parole eligibility terms calculated  
5 pursuant to this section shall be aggregated by the board for the  
6 purpose of determining the primary parole eligibility date~~],~~ except  
7 that no juvenile commitment shall be aggregated with any adult  
8 sentence~~].~~ The board shall promulgate rules and regulations to  
9 govern aggregation under this subsection.

10 i. The primary eligibility date shall be computed by a  
11 designated representative of the board and made known to the  
12 inmate in writing not later than 90 days following the  
13 commencement of the sentence. In the case of an inmate sentenced  
14 to a county penal institution such notice shall be made pursuant to  
15 subsection g. of this section. Each inmate shall be given the  
16 opportunity to acknowledge in writing the receipt of such  
17 computation. Failure or refusal by the inmate to acknowledge the  
18 receipt of such computation shall be recorded by the board but shall  
19 not constitute a violation of this subsection.

20 j. Except as provided in this subsection, each inmate sentenced  
21 pursuant to N.J.S.2A:113-4 for a term of life imprisonment,  
22 N.J.S.2A:164-17 for a fixed minimum and maximum term or  
23 subsection b. of N.J.S.2C:1-1 shall not be primarily eligible for  
24 parole on a date computed pursuant to this section, but shall be  
25 primarily eligible on a date computed pursuant to P.L.1948, c.84  
26 (C.30:4-123.1 et seq.), which is continued in effect for this purpose.  
27 Inmates classified as second, third or fourth offenders pursuant to  
28 section 12 of P.L.1948, c.84 (C.30:4-123.12) shall become  
29 primarily eligible for parole after serving one-third, one-half or  
30 two-thirds of the maximum sentence imposed, respectively, less in  
31 each instance commutation time for good behavior and credits for  
32 diligent application to work and other institutional assignments;  
33 provided, however, that if the prosecuting attorney or the  
34 sentencing court advises the board that the punitive aspects of the  
35 sentence imposed on such inmates will not have been fulfilled by  
36 the time of parole eligibility calculated pursuant to this subsection,  
37 then the inmate shall not become primarily eligible for parole until  
38 serving an additional period which shall be one-half of the  
39 difference between the primary parole eligibility date calculated  
40 pursuant to this subsection and the parole eligibility date calculated  
41 pursuant to section 12 of P.L.1948, c.84 (C.30:4-123.12). If the  
42 prosecuting attorney or the sentencing court advises the board that  
43 the punitive aspects of the sentence have not been fulfilled, such  
44 advice need not be supported by reasons and will be deemed  
45 conclusive and final. Any such decision shall not be subject to  
46 judicial review except to the extent mandated by the New Jersey  
47 and United States Constitutions. The board shall, reasonably prior  
48 to considering any such case, advise the prosecuting attorney and

1 the sentencing court of all information relevant to such inmate's  
2 parole eligibility.

3 k. Notwithstanding any provisions of this section to the  
4 contrary, a person sentenced to imprisonment pursuant to paragraph  
5 (2), (3) or (4) of subsection b. of N.J.S.2C:11-3 shall not be eligible  
6 for parole.

7 l. Notwithstanding the provisions of subsections a. through j.  
8 of this section, the appropriate board panel, as provided in section 1  
9 of P.L.1997, c.214 (C.30:4-123.51c), may release an inmate serving  
10 a sentence of imprisonment on medical parole at any time.

11 m. Notwithstanding the provisions of subsections a. through j.  
12 of this section, the appropriate board panel, as provided in section 2  
13 of P.L. , c. (C. ) (pending before the Legislature as this bill),  
14 may release an inmate serving a sentence of imprisonment on  
15 geriatric parole at any time.

16 (cf: P.L.2019, c.363, s.10)

17

18 2. (New section) a. Except as otherwise provided in section 9  
19 of P.L.1979, c.441 (C.30:4-123.53) and in subsection c. of this  
20 section, the appropriate board panel may release on geriatric parole  
21 an inmate serving a sentence of imprisonment who meets the  
22 conditions set forth in subsection b. of this section. The board  
23 panel shall give special consideration to whether age, time served,  
24 and diminished physical condition, if any, have reduced a geriatric  
25 inmate's risk to public safety. The board panel shall state on the  
26 record the reasons for granting or denying geriatric parole.

27 An inmate placed on parole pursuant to this section shall be  
28 subject to custody, supervision, and conditions as provided in  
29 section 15 of P.L.1970, c.441 (C.30:4-123.59) and shall be subject  
30 to sanctions for a violation of a condition of parole as provided in  
31 sections 16 through 21 of P.L.1979, c.441 (C.30:4-123.60 through  
32 30:4-123.65).

33 b. An inmate shall be considered for geriatric parole if the  
34 inmate meets <sup>1</sup>**[both]** either<sup>1</sup> of the following conditions:

35 (1) the inmate is 65 years of age or older<sup>1</sup>and has served one-  
36 third of the inmate's sentence<sup>1</sup>; <sup>1</sup>**[and]** or<sup>1</sup>

37 (2) the inmate <sup>1</sup>**[has served one third]** is 60 years of age or older  
38 and has served one-half<sup>1</sup> of the inmate's sentence.

39 c. No inmate shall be eligible for geriatric parole authorized  
40 under subsection a. of this section who is serving a sentence for a  
41 sex offense as defined in subsection b. of section 2 of  
42 P.L.1994, c.133 (C.2C:7-2) or any sentence for:

43 (1) a violation of N.J.S.2C:11-3; N.J.S.2C:11-4; N.J.S.2C:13-1;  
44 N.J.S.2C:15-1 in which the inmate, while in the course of  
45 committing the theft, attempted to kill another, or purposely  
46 inflicted or attempted to inflict serious bodily injury, or was armed  
47 with or used or threatened the immediate use of a deadly weapon;

1 subsection a. of N.J.S.2C:17-1; section 2 of P.L.2002, c.26  
2 (C.2C:38-2); or an attempt to commit any of these offenses; or

3 (2) a second degree violation of N.J.S.2C:20-4 or N.J.S.2C:21-  
4 15 in which the inmate caused the victim to suffer a loss of personal  
5 monetary savings as a result of fraud, misrepresentation, or a  
6 violation of a fiduciary duty; or for a first degree violation of  
7 N.J.S.2C:41-2.

8 d. At least five working days prior to commencing its review of  
9 a request for geriatric parole, the appropriate board panel shall  
10 notify the appropriate sentencing court; county prosecutor or, if the  
11 matter was prosecuted by the Attorney General, the Attorney  
12 General; and any victim or member of the family of a victim  
13 entitled to notice relating to a parole or the consideration of a parole  
14 under the provisions of P.L.1979, c.441 (C.30:4-123.45 et seq.).  
15 The notice shall be given in the manner prescribed by the board and  
16 shall contain all such information and documentation as the board  
17 shall deem appropriate and necessary.

18 Upon receipt of the notice, the sentencing court; county  
19 prosecutor or Attorney General, as the case may be; the victim or  
20 member of the family of the victim, as the case may be, shall have  
21 10 working days to review the notice and submit comments to the  
22 appropriate board panel. If a recipient of the notice does not submit  
23 comments within that 10-day period following the receipt of the  
24 notice, the panel may presume that the recipient does not wish to  
25 submit comments and proceed with its consideration of the request  
26 for geriatric parole. Any comments provided by a recipient shall be  
27 delivered to the appropriate board panel in the same manner or by  
28 the same method as notice was given by the panel to that recipient.

29 The information contained in any notice given by a panel  
30 pursuant to this subsection and the contents of any comments  
31 submitted by a recipient in response thereto shall be confidential  
32 and shall not be disclosed to any person who is not authorized to  
33 receive or review that information or those comments.

34 Notice given under the provisions of this subsection shall be in  
35 lieu of any other notice of parole consideration required under  
36 P.L.1979, c.441 (C.30:4-123.45 et seq.).

37 Nothing in this subsection shall be construed to impair any  
38 party's right to be heard pursuant to P.L.1979, c.441 (C.30:4-  
39 123.45 et seq.).

40 e. The appropriate board panel shall provide written notice of  
41 its decision to the sentencing court; the county prosecutor or  
42 Attorney General, as the case may be; and any victim or member of  
43 a victim's family given notice pursuant to subsection c. of this  
44 section.

45 f. The denial of a request for geriatric parole shall not preclude  
46 that inmate from being considered for parole pursuant to section 7  
47 of P.L.1979, c.441 (C.30:4-123.51).

48

49 3. This act shall take effect immediately.