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

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

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

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

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

c. Each adult inmate sentenced to a specific term of years pursuant to the "Controlled Dangerous Substances Act," P.L.1970, c.226 (C.24:21-1 et al.) shall become primarily eligible for parole after having served one-third of the sentence imposed less 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:
1Assembly AAP committee amendments adopted July 27, 2020.
application to work and other institutional assignments.

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

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

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

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

f. Each juvenile inmate committed to an indeterminate term shall be immediately eligible for parole. (P.L. ___ c. ___) (pending before the Legislature as this bill)

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

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

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

j. Except as provided in this subsection, each inmate sentenced pursuant to N.J.S.2A:111-4 for a term of life imprisonment, N.J.S.2A:164-17 for a fixed minimum and maximum term or subsection b. of N.J.S.2C:1-1 shall not be primarily eligible for parole on a date computed pursuant to this section, but shall be primarily eligible on a date computed pursuant to P.L.1948, c.84 (C.30:4-123.1 et seq.), which is continued in effect for this purpose.

Inmates classified as second, third or fourth offenders pursuant to section 12 of P.L.1948, c.84 (C.30:4-123.12) shall become primarily eligible for parole after serving one-third, one-half or two-thirds of the maximum sentence imposed, respectively, less in each instance commutation time for good behavior and credits for diligent application to work and other institutional assignments; provided, however, that if the prosecuting attorney or the sentencing court advises the board that the punitive aspects of the sentence imposed on such inmates will not have been fulfilled by the time of parole eligibility calculated pursuant to this subsection, then the inmate shall not become primarily eligible for parole until serving an additional period which shall be one-half of the difference between the primary parole eligibility date calculated pursuant to this subsection and the parole eligibility date calculated pursuant to section 12 of P.L.1948, c.84 (C.30:4-123.12). If the prosecuting attorney or the sentencing court advises the board that the punitive aspects of the sentence have not been fulfilled, such advice need not be supported by reasons and will be deemed conclusive and final. Any such decision shall not be subject to judicial review except to the extent mandated by the New Jersey and United States Constitutions. The board shall, reasonably prior to considering any such case, advise the prosecuting attorney and
the sentencing court of all information relevant to such inmate’s parole eligibility.

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

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

m. Notwithstanding the provisions of subsections a. through j. of this section, the appropriate board panel, as provided in section 2 of P.L.1997, c. (C. ) (pending before the Legislature as this bill), may release an inmate serving a sentence of imprisonment on geriatric parole at any time.

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

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

b. An inmate shall be considered for geriatric parole if the inmate meets either of the following conditions:

1. the inmate is 65 years of age or older and has served one-third of the inmate’s sentence;  
2. the inmate has served one-third of the inmate’s sentence and is 60 years of age or older.

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

1. a violation of N.J.S.2C:11-3; N.J.S.2C:11-4; N.J.S.2C:13-1; N.J.S.2C:15-1 in which the inmate, while in the course of committing the theft, attempted to kill another, or purposely inflicted or attempted to inflict serious bodily injury, or was armed with or used or threatened the immediate use of a deadly weapon;
subsection a. of N.J.S.2C:17-1; section 2 of P.L.2002, c.26 (C.2C:38-2); or an attempt to commit any of these offenses; or
(2) a second degree violation of N.J.S.2C:20-4 or N.J.S.2C:21-15 in which the inmate caused the victim to suffer a loss of personal monetary savings as a result of fraud, misrepresentation, or a violation of a fiduciary duty; or for a first degree violation of N.J.S.2C:41-2.

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

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

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

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

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

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

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

3. This act shall take effect immediately.