

P.L. 2020, CHAPTER 106, *approved October 19, 2020*  
Assembly, No. 2370 (*First Reprint*)

1 AN ACT concerning parole, supplementing Title 30 of the Revised  
2 Statutes, <sup>1</sup>amending P.L.1967, c.43,<sup>1</sup> and repealing section 1 of  
3 P.L.1997, c.214.

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

7  
8 1. a. Notwithstanding any provision of P.L.1979, c.441  
9 (C.30:4-123.45 et seq.) to the contrary, the court may release an  
10 inmate who qualifies under this section for compassionate release at  
11 any time during the term of incarceration. An inmate granted  
12 compassionate release pursuant to this section shall be subject to  
13 custody, supervision, and conditions as provided in section 15 of  
14 P.L.1979, c.441 (C.30:4-123.59) and shall be subject to sanctions  
15 for a violation of a condition of compassionate release as if on  
16 parole as provided in sections 16 through 21 of P.L.1979, c.441  
17 (C.30:4-123.60 through 30:4-123.65).

18 b. The Commissioner of Corrections shall establish and  
19 maintain a process by which an inmate may obtain a medical  
20 diagnosis to determine whether the inmate is eligible for  
21 compassionate release. The medical diagnosis shall be made by  
22 two licensed physicians designated by the commissioner. The  
23 diagnosis shall include, but not be limited to:

24 (1) a description of the terminal condition, disease or syndrome,  
25 or permanent physical incapacity;

26 (2) a prognosis concerning the likelihood of recovery from the  
27 terminal condition, disease or syndrome, or permanent physical  
28 incapacity;

29 (3) a description of the inmate's physical incapacity, if  
30 appropriate; and

31 (4) a description of the type of ongoing treatment that would be  
32 required if the inmate is granted compassionate release.

33 c. A medical diagnosis to determine whether an inmate is  
34 eligible for compassionate release under this section may be  
35 initiated by the administrator, superintendent, or a staff member of a  
36 correctional facility or, upon request, submitted to the  
37 Commissioner of Corrections by the inmate, a member of the  
38 inmate's family, or the inmate's attorney. The request shall be

**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 submitted in a manner and form prescribed by the Commissioner of  
2 Corrections.

3 d. (1) In the event that a medical diagnosis determines that an  
4 inmate is suffering from a grave medical condition as defined in  
5 subsection 1. of this section, the Department of Corrections shall  
6 promptly notify the inmate's attorney or, if the inmate does not  
7 have an attorney, the Public Defender, to initiate the process of  
8 petitioning for compassionate release. <sup>1</sup>The petition shall not be  
9 filed until a subsequent medical diagnosis determines that the  
10 inmate is suffering from a terminal condition, disease or syndrome,  
11 or a permanent physical incapacity as defined in subsection 1. of this  
12 section and the Department of Corrections issues to the inmate a  
13 Certificate of Eligibility for Compassionate Release.<sup>1</sup>

14 (2) In the event that a medical diagnosis determines that an  
15 inmate is suffering from a terminal condition, disease or syndrome,  
16 or permanent physical incapacity as defined in subsection 1. of this  
17 section, the Department of Corrections shall promptly issue to the  
18 inmate a Certificate of Eligibility for Compassionate Release and  
19 provide a copy of the certificate to the inmate's attorney or, if the  
20 inmate does not have an attorney, the Public Defender. An inmate  
21 who receives a Certificate of Eligibility for Compassionate Release  
22 may petition the court for compassionate release.

23 (3) In the event of a medical diagnosis that an inmate is  
24 suffering from a grave medical condition or upon issuance of a  
25 Certificate of Eligibility for Compassionate Release, an inmate may  
26 request representation from the Office of the Public Defender for  
27 the purpose of filing a petition for compassionate release.

28 e. A <sup>1</sup>~~["hearing on a"]~~ petition for compassionate release shall  
29 be <sup>1</sup>~~["held on an expedited basis in"]~~ filed with<sup>1</sup> the Superior Court  
30 <sup>1</sup>~~["in accordance with the Rules of Court"]~~.

31 (1) <sup>1</sup>~~["A"]~~ The petitioner shall serve a<sup>1</sup> copy of the petition  
32 <sup>1</sup>~~["shall be served"]~~ in accordance with the Rules of Court on the  
33 county prosecutor who prosecuted the matter or, if the matter was  
34 prosecuted by the Attorney General, the Attorney General.

35 (2) The county prosecutor or the Attorney General, as the case  
36 may be, shall provide <sup>1</sup>~~["a copy"]~~ notice<sup>1</sup> of the petition to any  
37 victim or member of the family of a victim entitled to notice  
38 relating to a parole or the consideration of a parole under the  
39 provisions of P.L.1979, c.441 (C.30:4-123.45 et seq.), and shall  
40 notify the victim or family member of the opportunity to present a  
41 <sup>1</sup>~~["written or videotaped"]~~ statement at the hearing on the petition or  
42 to testify to the court concerning any harm suffered by the victim or  
43 family member at the time of the hearing.

44 (3) Upon receipt of <sup>1</sup>notice of<sup>1</sup> the petition, the <sup>1</sup>~~["county~~  
45 ~~prosecutor or Attorney General, as the case may be, and the"]~~<sup>1</sup>  
46 victim or member of the family of the victim, as the case may be,  
47 may submit any comments to the court within 15 days following

1 receipt of 'notice of' the petition<sup>1</sup>, including but not limited to  
2 advising the court of an intent to testify at the hearing<sup>1</sup>.

3 (4) The information contained in the petition and the contents of  
4 any comments submitted by a recipient in response thereto shall be  
5 confidential and shall not be disclosed to any person who is not  
6 authorized to receive or review the information or comments.

7 (5) If a recipient 'of a notice' of the petition does not submit  
8 comments 'or advise the court of an intent to testify at the hearing'<sup>1</sup>  
9 within the 15-day period following receipt of the 'notice of the'  
10 petition, the court may presume that the recipient does not wish to  
11 submit comments and proceed with its consideration of the petition.

12 (6) The prosecutor shall have 15 days to respond to the petition,  
13 '[and a hearing shall be held on an expedited basis after receipt of  
14 any response] which period may be extended to 30 days for good  
15 cause shown.

16 (7) If the court receives from the prosecutor a response  
17 objecting to the petition or is notified that a victim or a family  
18 member intends to testify to the court at the hearing, the court shall  
19 hold a hearing on the petition on an expedited basis in accordance  
20 with the Rules of Court and procedures established by the  
21 Administrative Director of the Courts. If the court does not, within  
22 the time frames established under this subsection, receive a  
23 response from the prosecutor objecting to the petition and is not  
24 notified of an intent for a victim or family member to testify, the  
25 court may make a determination on the petition without holding a  
26 hearing<sup>1</sup>.

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

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

33 f. (1) Notwithstanding the provisions of subsection a. of  
34 section 9 of P.L.1979, c.441 (C.30:4-123.53), the court may order  
35 the compassionate release of an inmate who has been issued a  
36 Certificate of Eligibility for Compassionate Release pursuant to  
37 paragraph (2) of subsection d. of this section if the court finds by  
38 clear and convincing evidence that the inmate is so debilitated or  
39 incapacitated by the terminal condition, disease or syndrome, or  
40 permanent physical incapacity as to be permanently physically  
41 incapable of committing a crime if released and, in the case of a  
42 permanent physical incapacity, the conditions established in  
43 accordance with subsection h. of this section under which the  
44 inmate would be released would not pose a threat to public safety.

45 (2) 'No petition for compassionate release may be submitted to  
46 the court unless it is accompanied by a Certificate of Eligibility for  
47 Compassionate Release pursuant to paragraph (2) of subsection d.

1 of this section.<sup>1</sup> The court may summarily dismiss a petition for  
2 compassionate release if the petition is submitted without a  
3 Certificate of Eligibility for Compassionate Release <sup>1</sup>【pursuant to  
4 paragraph (2) of subsection d. of this section】<sup>1</sup>.

5 (3) The court shall provide to the inmate<sup>1</sup>【;】 and<sup>1</sup> the county  
6 prosecutor or Attorney General, as the case may be<sup>1</sup>【; and any  
7 victim or member of a victim's family notified pursuant to  
8 subsection e. of this section】<sup>1</sup>, written notice of its decision setting  
9 forth the reasons for granting or denying compassionate release<sup>1</sup>,  
10 and the county prosecutor or Attorney General, as the case may be,  
11 shall notify any victim or member of a victim's family who  
12 received notification pursuant to paragraph (2) of subsection e. of  
13 this section of the outcome of the court's decision<sup>1</sup>.

14 g. An order by the court granting a petition for compassionate  
15 release shall not become final for 10 days in order to permit the  
16 prosecution to appeal the court's order.

17 h. Whenever an inmate is granted compassionate release  
18 pursuant to this section, the court shall require, as a condition  
19 precedent to release, the State Parole Board to ensure that the  
20 inmate's release plan includes:

21 (1) identification of a community sponsor;

22 (2) verification of the availability of appropriate medical  
23 services sufficient to meet the treatment requirements identified  
24 pursuant to paragraph (4) of subsection b. of this section; and

25 (3) verification of appropriate housing which may include, but  
26 need not be limited to, a hospital, hospice, nursing home facility, or  
27 other housing accommodation suitable to the inmate's medical  
28 condition, disease or syndrome, or permanent physical incapacity.

29 The Commissioner of Corrections shall ensure that any inmate  
30 who petitions for compassionate release is provided an opportunity  
31 to apply, and is provided necessary assistance to complete the  
32 application, for medical assistance benefits under the Medicaid  
33 program established pursuant to P.L.1968, c.413 (C.30:4D-1 et  
34 seq.) prior to any determination of ineligibility by the court as a  
35 result of the inability to verify the availability of appropriate  
36 medical services, as required pursuant to paragraph (2) of this  
37 subsection.

38 i. In addition to any conditions imposed pursuant to section 15  
39 of P.L.1979, c.441 (C.30:4-123.59), as a condition of  
40 compassionate release, the State Parole Board may require an  
41 inmate to submit to periodic medical diagnoses by a licensed  
42 physician.

43 j. If, after review of a medical diagnosis required under the  
44 provisions of subsection i. of this section, the State Parole Board  
45 determines that a parolee granted compassionate release is no  
46 longer so debilitated or incapacitated by a terminal condition,  
47 disease or syndrome, or by a permanent physical incapacity as to be

1 physically incapable of committing a crime or, in the case of a  
2 permanent physical incapacity, the parolee poses a threat to public  
3 safety, the State Parole Board shall 'so notify the prosecutor, who  
4 may' initiate proceedings to return the inmate to confinement in an  
5 appropriate facility designated by the Commissioner of Corrections.

6 The 'prosecutor shall provide notice of the request to return the  
7 parolee to confinement to the parolee and the parolee's attorney or,  
8 if the parolee does not have an attorney, the Public Defender. The  
9 parolee shall have 15 days after receipt of the notice to object to the  
10 return to confinement, which period may be extended to 30 days for  
11 good cause shown. If the Superior Court receives from the parolee  
12 an objection to the request to return the parolee to confinement, the'  
13 court shall hold a hearing on an expedited basis 'in accordance with  
14 the Rules of Court and procedures established by the Administrative  
15 Director of the Courts' to determine whether the parolee should be  
16 returned to confinement pursuant to this subsection. 'If the court  
17 does not receive a timely objection to the return to confinement, the  
18 court may make a determination on the request without holding a  
19 hearing. The parolee shall be returned to confinement if the court  
20 finds, by a preponderance of the evidence, that the parolee poses a  
21 threat to public safety because the parolee is no longer debilitated or  
22 incapacitated by a terminal condition, disease or syndrome, or by a  
23 permanent physical incapacity.' Nothing in this subsection shall be  
24 construed to limit the authority of the board, an appropriate board  
25 panel, or parole officer of the State Parole Board to address a  
26 violation of a condition of parole pursuant to sections 16 through 21  
27 of P.L.1979, c.441 (C.30:4-123.60 through 30:4-123.65).

28 k. The denial of a petition for compassionate release or the  
29 return of a parolee to confinement under the provisions of  
30 subsection j. of this section shall not preclude an inmate from being  
31 considered for parole, if eligible, pursuant to subsection a. of  
32 section 7 of P.L.1979, c.441 (C.30:4-123.51).

33 l. For purposes of this section:

34 "Grave medical condition" means a prognosis by the licensed  
35 physicians designated by the Commissioner of Corrections pursuant  
36 to subsection b. of this section that an inmate has more than six  
37 months but not more than 12 months to live or has a medical  
38 condition that did not exist at the time of sentencing and for at least  
39 three months has rendered the inmate unable to perform activities of  
40 basic daily living, resulting in the inmate requiring 24-hour care.

41 "Terminal condition, disease or syndrome" means a prognosis by  
42 the licensed physicians designated by the Commissioner of  
43 Corrections pursuant to subsection b. of this section that an inmate  
44 has six months or less to live.

45 "Permanent physical incapacity" means a prognosis by the  
46 licensed physicians designated by the Commissioner of Corrections  
47 pursuant to subsection b. of this section that an inmate has a

1 medical condition that renders the inmate permanently unable to  
2 perform activities of basic daily living, results in the inmate  
3 requiring 24-hour care, and did not exist at the time of sentencing.  
4

5 <sup>1</sup>2. Section 5 of P.L.1967, c.43 (C.2A:158A-5) is amended to  
6 read as follows:

7 It shall be the duty of the Public Defender to provide for the  
8 legal representation of any indigent defendant who is formally  
9 charged with the commission of an indictable offense.

10 All necessary services and facilities of representation (including  
11 investigation and other preparation) shall be provided in every case.  
12 The factors of need and real value to a defense may be weighed  
13 against the financial constraints of the Public Defender's office in  
14 determining what are the necessary services and facilities of  
15 representation.

16 Representation as herein provided for shall include any direct  
17 appeal from conviction and such post-conviction proceedings as  
18 would warrant the assignment of counsel pursuant to the court rules.

19 Representation for indigent defendants (a) may be provided in  
20 any federal court in any matter arising out of or relating to an action  
21 pending or recently pending in a court of criminal jurisdiction of  
22 this State and (b) may be provided in any federal court in this State  
23 where indigent defendants are charged with the commission of a  
24 federal criminal offense and where the representation is under a  
25 plan adopted pursuant to the Criminal Justice Act of 1964  
26 (18 U.S.C. s. 3006A).

27 The Public Defender also shall provide for the legal  
28 representation of any eligible inmate who is serving a custodial  
29 prison sentence and requests assistance in petitioning the Superior  
30 Court for compassionate release in accordance with section 1 of  
31 P.L. , c. (C. )(pending before the Legislature as this bill).<sup>1</sup>  
32 (cf: P.L.1987, c.170, s.2)

33  
34 <sup>1</sup>[2.] 3.<sup>1</sup> Section 1 of P.L.1997, c.214 (C.30:4-123.51c) is  
35 repealed.  
36

37 <sup>1</sup>[3.] 4.<sup>1</sup> This act shall take effect on the first day of the fourth  
38 month following enactment, provided however, that the  
39 Commissioner of Corrections<sup>1</sup>, State Parole Board, and  
40 Administrative Director of the Courts<sup>1</sup> may take such anticipatory  
41 action as deemed necessary to effectuate the provisions of this act.  
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46 Establishes compassionate release program for certain inmates;  
47 repeals law that establishes medical parole.