

ASSEMBLY, No. 21

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 20, 1997

By Assemblyman **HOLZAPFEL**, Assemblywoman **CRECCO**
and Assemblyman **Blee**

1 AN ACT concerning the standard for parole release and amending
2 P.L.1979, c.441.

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

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7 1. Section 9 of P.L.1979, c.441 (C.30:4-123.53) is amended to
8 read as follows:

9 9. a. An adult inmate shall be released on parole at the time of
10 parole eligibility, unless information supplied in the report filed
11 pursuant to section 10 of **[this act] P.L.1979, c.441 (C. 30:4-123.54)**
12 or developed or produced at a hearing held pursuant to section 11 of
13 **[this act] P.L.1979, c.441 (C.30:4-123.55)** indicates by a
14 preponderance of the evidence that **[there is a substantial likelihood]**
15 **the inmate has failed to cooperate in his or her own rehabilitation or**
16 **that there is a reasonable expectation that the inmate will [commit a**
17 **crime under the laws of this State] violate conditions of parole**
18 **imposed pursuant to section 15 of P.L.1979, c.441 (C.30:4-123.59)** if
19 released on parole at **[such] that** time. In reaching such determination,
20 the board panel or board shall state on the record the reasons therefor.

21 b. A juvenile inmate shall be released on parole when it shall
22 appear that the juvenile, if released, will not cause injury to persons
23 or substantial injury to property.

24 (cf: P.L.1979, c.441, s.9)

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26 2. Section 12 of P.L.1979, c.441 (C.30:4-123.56) is amended to
27 read as follows:

28 12. a. The board shall develop a schedule of future parole
29 eligibility dates for adult inmates denied release at their eligibility date.
30 In developing such schedule, particular emphasis shall be placed on
31 the severity of the offense for which he was denied parole and on the
32 characteristics of the offender, such as, but not limited to, the prior
33 criminal record of the inmate and the need for continued

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

Matter underlined thus is new matter.

1 incapacitation of the inmate.

2 b. If the release on the eligibility date is denied, the board panel
3 which conducted the hearing shall refer to the schedule published
4 pursuant to subsection a., and include in its statement denying parole
5 notice of the date of future parole consideration. If such date differs
6 from the date otherwise established by the schedule, the board panel
7 shall include particular reasons therefor. [Such] The future parole
8 eligibility date shall not be altered to take into account [usual]
9 remissions of sentence for good behavior and diligent application to
10 work and other assignments[. Such]; provided however, the future
11 parole eligibility date may [also] be altered pursuant to section 8 of
12 [this act] P.L.1979, c. 441 (C.30:4-123.52).

13 c. An inmate shall be released on parole on the new parole
14 eligibility date unless [new] information filed pursuant to a procedure
15 identical to that set forth in section 10 of P.L.1979, c.441 (C.30:4-
16 123.54) indicates by a preponderance of the evidence that there is a
17 substantial likelihood that the inmate will commit a crime under the
18 laws of this State if released on parole at such time. The
19 determination of whether [there is such an indication in the new
20 preparole report or whether there is additional relevant information
21 to be developed or produced at a hearing, and the determination of
22 whether] the inmate shall be released on the new parole eligibility date
23 shall be made pursuant to the procedure set forth in [sections]section
24 11 of P.L.1979, c.441(C.30:4-123.55) and [12]this section.
25 (cf: P.L.1979, c.441, s.12)

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27 3. This act shall take effect immediately and apply to persons
28 whose parole eligibility date arises on or after the effective date of this
29 act.

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32 STATEMENT

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34 This bill is based upon recommendations of the Study Commission
35 on Parole. The bill changes the standard by which the parole board
36 determines whether an inmate should be paroled, allows the parole
37 board to weigh all relevant information in an inmate's record when
38 considering that inmate's parole eligibility at second and subsequent
39 hearings and eliminates good time and work credits for inmates denied
40 parole. It prohibits the parole of an inmate who has not cooperated in
41 his or her own rehabilitation while in prison. The bill also prohibits
42 parole in cases where a reasonable expectation exists, and is stated in
43 the record by the board, that an inmate would violate one of the
44 statutory conditions by which parolees must abide upon release. These
45 conditions include: compliance with all laws; a prohibition on the
46 possession of a firearm and on the use, possession or distribution of

1 drugs; strict supervision by a parole officer; and any other specific
2 conditions the parole board may impose to reduce the likelihood of
3 future criminal behavior by the parolee.

4 Under existing law, the parole board may refuse to grant parole to
5 an inmate only if information provided in a preparole report to the
6 board or developed at a parole hearing indicates by a preponderance
7 of the evidence that a substantial likelihood exists the inmate will
8 commit another crime. This bill would grant more discretion to the
9 board in these matters.

10 Also under existing law, upon the second and subsequent review of
11 parole eligibility, the parole board is required to release the inmate on
12 parole unless new information obtained in a new preparole report or
13 produced at the hearing indicates by a preponderance of the evidence
14 that there is a substantial likelihood the inmate will commit a crime
15 upon release. Under the bill's provisions, at the second and subsequent
16 parole hearings, the parole board would not be required to base its
17 decision strictly on information developed since the previous denial
18 of parole, but could consider information provided at earlier parole
19 hearings. The commission described the provision permitting the
20 parole board to consider only new information in a subsequent parole
21 decision "one of the most significant and inappropriate limitations that
22 existing law places on the board's discretion."

23 Finally, the bill eliminates the use of good time and work credits to
24 accelerate an inmate's future eligibility date after the inmate was
25 denied parole. The Study Commission on Parole found that the period
26 of incarceration after parole denial offers the inmate an opportunity to
27 address unresolved issues, including mental health and substance abuse
28 problems. The commission stated that accelerating the eligibility date
29 in such cases "only reinforces the public perception that inmates
30 actually serve less time than required by the original sentence ... or the
31 parole board."

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36 Allows board to consider all relevant information at subsequent parole
37 hearings, changes parole standard, eliminates certain credits to inmates
38 denied parole.