

ASSEMBLY, No. 22

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 20, 1997

By Assemblyman **HOLZAPFEL** and
Assemblywoman **VANDERVALK**

1 AN ACT concerning parole eligibility in certain cases 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 7 of P.L.1979, c.441 (C.30:4-123.51) is amended to
8 read as follows:

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

23 b. Each adult inmate sentenced to a term of life imprisonment shall
24 become primarily eligible for parole after having served any judicial or
25 statutory mandatory minimum term, or 25 years where no mandatory
26 minimum term has been imposed less commutation time for good
27 behavior and credits for diligent application to work and other
28 institutional assignments. If an inmate sentenced to a specific term or
29 terms of years is eligible for parole on a date later than the date upon
30 which he would be eligible if a life sentence had been imposed, then
31 in such case the inmate shall be eligible for parole after having served
32 25 years, less commutation time for good behavior and credits for
33 diligent application to work and other institutional assignments.

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 Consistent with the provisions of the New Jersey Code of Criminal
2 Justice (N.J.S.2C:11-3, 2C:14-6, 2C:43-6, 2C:43-7), commutation and
3 work credits shall not in any way reduce any judicial or statutory
4 mandatory minimum term and such credits accrued shall only be
5 awarded subsequent to the expiration of the term.

6 c. Each inmate sentenced to a specific term of years pursuant to the
7 "Controlled Dangerous Substances Act," P.L.1970, c.226 (C.24:21-1
8 through 45) shall become primarily eligible for parole after having
9 served one-third of the sentence imposed less commutation time for
10 good behavior and credits for diligent application to work and other
11 institutional assignments.

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

21 e. Each adult inmate sentenced to the Adult Diagnostic and
22 Treatment Center, Avenel, shall become primarily eligible for parole
23 upon recommendation by the special classification review board
24 pursuant to N.J.S. 2C:47-5, except that no such inmate shall become
25 primarily eligible prior to the expiration of any mandatory or fixed
26 minimum term imposed pursuant to N.J.S.2C:14-6.

27 f. Each juvenile inmate committed to an indeterminate term shall
28 be immediately eligible for parole.

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

46 h. When an inmate is sentenced to more than one term of

1 imprisonment, the primary parole eligibility terms calculated pursuant
2 to this section shall be aggregated by the board for the purpose of
3 determining the primary parole eligibility date, except that no juvenile
4 commitment shall be aggregated with any adult sentence. The board
5 shall promulgate rules and regulations to govern aggregation under
6 this subsection.

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

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

45 k. Notwithstanding the provisions of the preceding subsections of
46 this section, an inmate shall be eligible for a special medical parole

1 when that inmate is determined to be suffering from a medical
2 condition which is expected (1) to result in the inmate's imminent
3 death or (2) to render the inmate permanently incapable of posing a
4 threat to commit any new crimes. The special medical parole
5 authorized under this subsection shall not be available to any inmate
6 who has been sentenced to a term of imprisonment for a violation of
7 N.J.S.2C:11-3; N.J.S.2C:11-4; N.J.S.2C:13-1; subsection a. of
8 N.J.S.2C:14-2; N.J.S.2C:15-1 in which the inmate, while in the course
9 of committing the theft, attempted to kill another, or purposely
10 inflicted or attempted to inflict serious bodily injury, or was armed
11 with, or used or threatened the immediate use of a deadly weapon;
12 subsection a. of N.J.S.2C:17-1; or N.J.S.2C:24-4. The board, in
13 accordance with the provisions of the "Administrative Procedure Act,"
14 P.L.1968, c.410 (C.52:14B-1 et seq.), shall promulgate rules and
15 regulations to effectuate the purposes of this subsection.
16 (cf: P.L.1982, c.71, s.2)

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18 2. This act shall take effect immediately.

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STATEMENT

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23 This bill establishes a special medical parole for certain inmates who
24 are terminally ill or severely incapacitated.25 Under the provisions of the bill, inmates would be eligible for a
26 special medical parole if they were suffering from a medical condition
27 which was expected either (1) to result in the inmate's imminent death
28 or (2) to render the inmate incapable of committing any new crime.
29 This special medical parole would not be available to inmates who are
30 incarcerated for violent offenses such as murder, manslaughter,
31 aggravated sexual assault, armed robbery, aggravated arson,
32 kidnaping, and endangering the welfare of a child.

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37 Permits medical parole for certain terminally ill or severely
38 incapacitated inmates.