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ASSEMBLY COMMITTEE SUBSTITUTE FOR  
ASSEMBLY, No. 22

STATE OF NEW JERSEY

ADOPTED MARCH 3, 1997

Sponsored by Assemblyman HOLZAPFEL, Assemblywoman  
VANDERVALK, Assemblymen Geist and Kramer

1 AN ACT concerning medical parole and supplementing and amending  
2 P.L.1979, c.441.

3

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

6

7 1. (New section) a. (1) For the purpose of this section, "terminal  
8 condition, disease or syndrome" means a prognosis by the licensed  
9 physicians designated by the Commissioner of Corrections pursuant to  
10 subsection b. of this section that an inmate has six months or less to  
11 live.

12 (2) Except as otherwise provided in paragraph (3) of this  
13 subsection, the appropriate board panel may release on medical parole  
14 any inmate serving any sentence of imprisonment who has been  
15 diagnosed pursuant to subsection b. of this section as suffering from  
16 a terminal condition, disease or syndrome and is found by the  
17 appropriate board panel to be so debilitated or incapacitated by the  
18 terminal condition, disease or syndrome as to be permanently  
19 physically incapable of committing a crime if released on parole.  
20 Notwithstanding any provision of P.L.1979, c.441 (C.30:4-123.45 et  
21 seq.) to the contrary, the appropriate board panel may release any such  
22 inmate at any time during the term of the sentence. <sup>1</sup>An inmate placed  
23 on parole pursuant to this section shall be subject to custody,  
24 supervision and conditions as provided in section 15 of P.L.1979,  
25 c.441 (C.30:3-123.59) and shall be subject to sanctions for a violation  
26 of a condition of parole as provided in sections 16 through 21 of  
27 P.L.1979, c.441 (C.30:4-123.60 through 30:4-123.65).<sup>1</sup>

**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> Senate SLP committee amendments adopted June 16, 1997.

1 (3) No inmate serving any sentence for a violation of N.J.S.2C:11-  
2 3; N.J.S.2C:11-4; N.J.S.2C:13-1; subsection a. of N.J.S.2C:14-2;  
3 N.J.S.2C:15-1 in which the inmate, while in the course of committing  
4 the theft, attempted to kill another, or purposely inflicted or attempted  
5 to inflict serious bodily injury, or was armed with or used or  
6 threatened the immediate use of a deadly weapon; subsection a. of  
7 N.J.S.2C:17-1; or N.J.S.2C:24-4 or an attempt to commit any of these  
8 offenses shall be eligible for the medical parole authorized under  
9 paragraph (2) of this section.

10 b. A medical diagnosis that an inmate is suffering from a terminal  
11 condition, disease or syndrome shall be made by two licensed  
12 physicians designated by the Commissioner of Corrections. The  
13 diagnosis shall include, but not be limited to:

14 (1) a description of the terminal condition, disease or syndrome;

15 (2) a prognosis concerning the likelihood of recovery from the  
16 terminal condition, disease or syndrome;

17 (3) a description of the inmate's physical incapacity; and

18 (4) a description of the type of ongoing treatment that would be  
19 required if the inmate were released on medical parole.

20 c. A request for a medical diagnosis to determine whether an  
21 inmate is eligible for a medical parole under this section may be  
22 submitted to the appropriate board panel by the Commissioner of  
23 Corrections, the administrator or superintendent of a correctional  
24 facility; the inmate; a member of the inmate's family or the inmate's  
25 attorney. The request shall be submitted in a manner and form  
26 prescribed by the board.

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

38 Upon receipt of the notice, the sentencing court; county prosecutor  
39 or Attorney General, as the case may be; the victim or member of the  
40 family of the victim, as the case may be, shall have 10 working days  
41 to review the notice and submit comments to the appropriate board  
42 panel. If a recipient of the notice does <sup>1</sup>not<sup>1</sup> submit comments within  
43 that 10 day period following the receipt of the notice, the panel may  
44 presume that the recipient does not wish to submit comments and  
45 proceed with its consideration of the request for medical parole. Any  
46 comments provided by a recipient shall be delivered to the appropriate

1 board panel in the same manner or by the same method as notice was  
2 given by the panel to that recipient.

3 The information <sup>1</sup>[contain] contained<sup>1</sup> in any notice given by a  
4 panel pursuant to this subsection and the contents of any comments  
5 submitted by a recipient in response thereto shall be confidential and  
6 shall not be disclosed to any person who is not authorized to receive  
7 or review that information <sup>1</sup>[of] or<sup>1</sup> those comments.

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

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

13 e. The appropriate board panel shall conduct its review of a  
14 request for medical parole as expeditiously as possible.

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

19 f. Whenever an inmate is granted medical parole pursuant to this  
20 section, the appropriate board shall require, as a condition precedent  
21 to release, that the inmate's release plan include:

22 (1) identification of a community sponsor;

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

26 (3) verification of appropriate housing which may include, but  
27 <sup>1</sup>need<sup>1</sup> not be limited to, a hospital, hospice, nursing home facility or  
28 other housing accommodation suitable to the inmate's medical  
29 condition, disease or syndrome.

30 g. <sup>1</sup>[As] In addition to any conditions imposed pursuant to  
31 section 15 of P.L.1979, c.441 (C.30:4-123.59), as<sup>1</sup> a condition of  
32 release on medical parole, the appropriate board panel may require an  
33 inmate to submit to periodic medical diagnoses by a licensed physician.

34 h. If, after review of a medical diagnosis required under the  
35 provisions of subsection g. of this section, the appropriate board panel  
36 determines that a parolee released on medical parole is no longer so  
37 debilitated or incapacitated by a terminal condition, disease or  
38 syndrome as to be physically incapable <sup>1</sup>[or] of<sup>1</sup> committing a crime,  
39 <sup>1</sup>[or if a parolee released on medical parole commits a new crime,]<sup>1</sup>  
40 the parolee shall be returned to confinement in an appropriate facility  
41 designated by the Commissioner of Corrections.

42 A decision to return the parolee to confinement pursuant to this  
43 subsection shall be rendered only after a hearing by the appropriate  
44 board panel or by a hearing officer designated by the chairman of the  
45 board. <sup>1</sup>Nothing in this subsection shall be construed to limit the  
46 authority of the board, an appropriate board panel or any parole

1 officer to address a violation of a condition of parole pursuant to  
2 sections 16 through 21 of P.L.1979, c.441 (C.30:4-123.60 through  
3 30:4-123.65).<sup>1</sup>

4 i. The denial of a request for medical parole or the return of a  
5 parolee to confinement under the provisions of subsection h. of this  
6 section shall not preclude that inmate from being considered for parole  
7 pursuant to subsection a. of section 7 of P.L.1979, c.441 (C.30:4-  
8 123.51).

9  
10 2. Section 7 of P.L.1979, c.441 (C.30:4-123.51) is amended to  
11 read as follows:

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

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

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

1 other institutional assignments.

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

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

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

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

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

43 i. The primary eligibility date shall be computed by a designated  
44 representative of the board and made known to the inmate in writing  
45 not later than 90 days following the commencement of the sentence.  
46 In the case of an inmate sentenced to a county penal institution such

1 notice shall be made pursuant to subsection g. of this section. Each  
2 inmate shall be given the opportunity to acknowledge in writing the  
3 receipt of such computation. Failure or refusal by the inmate to  
4 acknowledge the receipt of such computation shall be recorded by the  
5 board but shall not constitute a violation of this subsection.

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

35 k. <sup>1</sup>Notwithstanding any provisions of this section or N.J.S.2C:47-  
36 5 to the contrary, a person sentenced to imprisonment pursuant to  
37 paragraph (2) or (3) of subsection b. of N.J.S.2C:11-3 shall not be  
38 eligible for parole.

39 l. <sup>1</sup> Notwithstanding the provisions of subsections a. <sup>1</sup>[thorough]  
40 through <sup>1</sup> j. of this section, the appropriate board panel, as provided in  
41 section 1 of P.L. , c. (C. )(now pending before the Legislature  
42 as this bill), may release an inmate serving a sentence of imprisonment  
43 on medical parole at anytime.

44 (cf: P.L.1997, c.60, s.3)

45

46 3. This act shall take effect immediately.

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3 Permits medical parole for certain terminally ill or severely  
4 incapacitated inmates.