

[Second Reprint]
ASSEMBLY, No. 23

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 20, 1997

By Assemblymen DeSOPO, TALARICO, Blee, Assemblywoman
Crecco, Assemblyman Geist, Assemblywoman Heck,
Assemblymen LeFevre, Kramer, Azzolina, O'Toole and Zecker

1 AN ACT concerning the parole decision making process 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. Section 10 of P.L.1979, c.441 (C.30:4-123.54) is amended to
8 read as follows:

9 10. a. At least 120 days but not more than 180 days prior to the
10 parole eligibility date of each adult inmate, a report concerning the
11 inmate shall be filed with the appropriate board panel, by the staff
12 members designated by the superintendent or other chief executive
13 officer of the institution in which the inmate is held.

14 b. (1) The report filed pursuant to subsection a. shall contain
15 preincarceration records of the inmate, ²[including any psychological
16 reports prepared in connection with any court proceedings.]² state the
17 conduct of the inmate during the current period of confinement,
18 include a complete report on the inmate's social, physical and mental
19 condition, ²[including any preparole psychological evaluations.]²
20 include an investigation by the Bureau of Parole of the inmate's parole
21 plans, and present information bearing upon the likelihood that the
22 inmate will commit a crime under the laws of this State if released on
23 parole. ²[In addition, the report shall include an objective risk
24 assessment. The risk assessment, which shall be in a form prescribed
25 by the board pursuant to rule and regulation, shall consist of both
26 static and dynamic factors which may assist the board panel in
27 determining whether the inmate shall be certified for parole and, if
28 paroled, the level of supervision the parolee may require. In addition
29 to the information otherwise gathered for and incorporated in the pre-

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.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly ALP committee amendments adopted March 3, 1997.

² Senate SLP committee amendments adopted June 16, 1997.

1 parole report, the assessment shall include evaluations of the inmate's
2 ability to function independently, the inmate's educational and
3 employment background, the inmate's family and marital history, and
4 such other information and factors as the board may deem appropriate
5 and necessary.] The preincarceration records of the inmate contained
6 in the report shall include any psychological reports prepared in
7 connection with any court proceedings.²

8 (2) At the time of sentencing, the prosecutor shall notify any victim
9 injured as a result of a crime of the first or second degree or the
10 nearest relative of a murder victim of the opportunity to present a
11 statement for the parole report to be considered at the parole hearing
12 or to testify to the parole board concerning his harm at the time of the
13 parole hearing. Each victim or relative shall be responsible for
14 notifying the board of his intention to submit such a statement and to
15 provide an appropriate mailing address.

16 The report may include a statement concerning the continuing
17 nature and extent of any physical harm or psychological or emotional
18 harm or trauma suffered by the victim, the extent of any loss of
19 earnings or ability to work suffered by the victim and the continuing
20 effect of the crime upon the victim's family. At the time public notice
21 is given that an inmate is being considered for parole pursuant to this
22 section, the board shall also notify any victim or nearest relative who
23 has previously contacted the board of the availability to provide a
24 statement for inclusion in the parole report or to present testimony at
25 the parole hearing.

26 The board shall notify such person at his last known mailing
27 address.

28 c. A copy of the report filed pursuant to subsection a. of this
29 section, excepting those documents which have been classified as
30 confidential pursuant to rules and regulations of the board or the
31 Department of Corrections, shall be served on the inmate at the time
32 it is filed with the board panel. The inmate may file with the board
33 panel a written statement regarding the report, but shall do so within
34 105 days prior to the primary parole eligibility date.

35 d. Upon receipt of the public notice pursuant to section 1 of
36 P.L.1979, c.441 (C.30:4-123.45), a county prosecutor may request
37 from the parole board a copy of the report on any adult inmate
38 prepared pursuant to subsection a. of this section, which shall be
39 expeditiously forwarded to the county prosecutor by the parole board
40 by mail, courier, or other means of delivery. Upon receipt of the
41 report, the prosecutor has 10 working days to review the report and
42 notify the parole board of the prosecutor's comments, if any, or notify
43 the parole board of the prosecutor's intent to provide comments. If
44 the county prosecutor does not provide comments or notify the parole
45 board of the prosecutor's intent to provide comments within the 10
46 working days, the parole board may presume that the prosecutor does

1 not wish to provide comments and may proceed with the parole
2 consideration. Any comments provided by a county prosecutor shall
3 be delivered to the parole board by the same method by which the
4 county prosecutor received the report. The confidentiality of the
5 contents in a report which are classified as confidential shall be
6 maintained and shall not be disclosed to any person who is not
7 authorized to receive or review a copy of the report containing the
8 confidential information.

9 e. Any provision of this section to the contrary notwithstanding,
10 the board shall by rule or regulation modify the scope of the required
11 reports and time periods for rendering such reports with reference to
12 county penal institutions.

13 (cf: P.L.1985, c.44, s.2)

14
15 2. Section 8 of P.L.1979, c.441 (C.30:4-123.52) is amended to
16 read as follows:

17 8. a. If the appropriate board panel determines that an adult inmate
18 has seriously or persistently violated specifically defined institutional
19 rules or has engaged in conduct indictable in nature while incarcerated,
20 the inmate's parole eligibility date may be increased pursuant to a
21 schedule developed by the board. In developing such schedule,
22 particular emphasis shall be placed on the severity of the inmate's
23 conduct. The board shall deduct from the scheduled penalty any loss
24 of commutation time imposed by the Department of Corrections
25 pursuant to R.S. 30:4-140.

26 b. If the appropriate board panel determines that an adult inmate
27 has made exceptional progress, as evidenced by documented
28 participation and progress in institutional or community educational,
29 training or other programs, the inmate's parole eligibility date may be
30 decreased, except that no parole eligibility date shall be set below the
31 primary parole eligibility date without the consent of the sentencing
32 court, which need not conduct a hearing and in no case shall a parole
33 eligibility date be set below any judicial or statutory mandatory
34 minimum term, including any parole eligibility date set pursuant to
35 section 23 of this act.

36 c. The appropriate board panel shall annually monitor the progress
37 of each adult inmate and provide the inmate with a written statement
38 of any changes in his parole eligibility.

39 d. At any time while an inmate is committed to the custody of the
40 Commissioner of Corrections, the appropriate board panel¹ or the
41 Parole Board¹ may require, as often as it deems necessary, that inmate
42 to undergo an in-depth preparole psychological evaluation¹ conducted
43 by a psychologist employed by the Parole Board or, where appropriate
44 after consultation with the Department of Corrections, by a
45 psychologist at the Adult Diagnostic and Treatment Center,¹ to
46 provide current and accurate information to assess the inmate's

1 suitability for parole.

2 ²e. Prior to the parole eligibility date of each adult inmate, an
3 objective risk assessment shall be performed by board staff. The risk
4 assessment, which shall be in a form prescribed by the board pursuant
5 to rule and regulation, shall consist of both static and dynamic factors
6 which may assist the board panel in determining whether the inmate
7 shall be certified for parole and, if paroled, the level of supervision the
8 parolee may require. In addition to the information otherwise
9 gathered for and incorporated in the pre-parole report, the assessment
10 shall include evaluations of the inmate's ability to function
11 independently, the inmate's educational and employment background,
12 the inmate's family and marital history, and such other information and
13 factors as the board may deem appropriate and necessary.²

14 (cf: P.L.1979, c.441, s.8)

15

16 3. Section 11 of PL.1979, c.441 (C.30:4-123.55) is amended to
17 read as follows:

18 11. a. Prior to the parole eligibility date of each adult inmate, a
19 designated hearing officer shall review the reports required by section
20 10 of [this act] P.L.1979, c.441 (C.30:4-123.54), and shall determine
21 whether there is a basis for denial of parole in the preparole report ,
22 any risk-assessment prepared in accordance with the provisions of
23 subsection ²[b. of section 10 of P.L.1979, c.441 (C.30:3-123.54)] e.
24 of section 8 of P.L.1979, c.441 (C.30:4-123.52)², or the inmate's
25 statement, or an indication, reduced to writing, that additional
26 information providing a basis for denial of parole would be developed
27 or produced at a hearing. If the hearing officer determines that there
28 is no basis in the preparole report, the risk-assessment, or the inmate's
29 statement for denial of parole and that there is no additional relevant
30 information to be developed or produced at a hearing, he shall at least
31 60 days prior to the inmate's parole eligibility date recommend in
32 writing to the assigned member of the board panel that parole release
33 be granted.

34 b. If the assigned member of the board panel or in the case of an
35 inmate sentenced to a county penal institution, the assigned member
36 concurs in the hearing officer's recommendation, he shall certify parole
37 release pursuant to section 15 of [this act] P.L.1979, c.441 (C.30:4-
38 123.59) as soon as practicable after the eligibility date and so notify
39 the inmate and the board. In the case of an inmate sentenced to a
40 county penal institution the board shall certify parole release or deny
41 parole as provided by this section, except with regard to time periods
42 for notice and parole processing which are authorized by or otherwise
43 adopted pursuant to subsection g. of section 7 of P.L.1979, c.441
44 (C.30:4-123.51). If the designated hearing officer does not
45 recommend release on parole or if the assigned member does not
46 concur in a recommendation of the designated hearing officer in favor

1 of release, then the parole release of an inmate in a county penal
2 institution shall be treated under the provisions of law otherwise
3 applicable to an adult inmate. In the case of an inmate sentenced to a
4 county penal institution, the performance of public service for the
5 remainder of the term of the sentence shall be a required condition of
6 parole, where appropriate.

7 c. If the hearing officer or the assigned member determines that
8 there is a basis for denial of parole, or that a hearing is otherwise
9 necessary, the hearing officer or assigned member shall notify the
10 appropriate board panel and the inmate in writing of his determination,
11 and of a date for a parole consideration hearing. The board panel shall
12 notify the victim of the crime, if the crime for which the inmate is
13 incarcerated was a crime of the first or second degree, or the victim's
14 nearest relative if the crime was murder, as appropriate, who was
15 previously contacted by the board and who has indicated his intention
16 to the board to testify at the hearing, of the opportunity to testify or
17 submit written statements at the hearing. Said hearing shall be
18 conducted by the appropriate board panel at least 30 days prior to the
19 eligibility date. At the hearing, which shall be informal, the board
20 panel shall receive as evidence any relevant and reliable documents or
21 in person testimony, including that of the victim of the crime or the
22 members of the family of a murder victim if the victim or a family
23 member so desires. If a victim of a crime or the relative of a murder
24 victim chooses not to testify personally at the hearing, the victim or
25 relative may elect to present testimony to a senior hearing officer
26 designated by the board panel. The senior hearing officer shall prepare
27 a report or a transcript of the testimony for presentation to the board
28 panel at the hearing. All such evidence not classified as confidential
29 pursuant to rules and regulations of the board or the Department of
30 Corrections shall be disclosed to the inmate and the inmate shall be
31 permitted to rebut such evidence and to present evidence on his own
32 behalf. The decision of the board panel shall be based solely on the
33 evidence presented at the hearing.

34 d. At the conclusion of the parole consideration hearing, the board
35 panel shall either (1) certify the parole release of the inmate pursuant
36 to section 15 of this act as soon as practicable after the eligibility date
37 and so notify the inmate and the board, or (2) deny parole and file with
38 the board within 30 days of the hearing a statement setting forth the
39 decision, the particular reasons therefor, except information classified
40 as confidential pursuant to rules and regulations of the board or the
41 Department of Corrections, a copy of which statement shall be served
42 upon the inmate together with notice of his right to appeal to the
43 board.

44 e. Upon request by the hearing officer or the inmate, the time
45 limitations contained in [sections] section 10 of P.L.1979, c.441
46 (C.30:4-123.54) and [11] this section may be waived by the

1 appropriate board panel for good cause.

2 f. Notwithstanding the provision of any other law to the contrary,
3 if an inmate incarcerated for murder is recommended for parole by the
4 assigned board member or the appropriate board panel, parole shall
5 not be certified until a majority of the full parole board, after
6 conducting a hearing, concurs in that recommendation. The board
7 shall notify the victim's family of that hearing and family members shall
8 be afforded the opportunity to testify in person or to submit written
9 statements. The provisions of this subsection shall not apply to an
10 inmate who has his parole revoked and is returned to custody pursuant
11 to the provisions of section 19 of P.L.1979, c.441 (C.30:4-123.63).
12 (cf: P.L.1993, c.222, s.1)

13

14 4. This act shall take effect immediately ¹; except that
15 notwithstanding the provisions of subsection ²[b. of section 10 of
16 P.L.1979, c.441 (C.30:4-123.54)]e. of section 8 of P.L.1979, c.441
17 (C.30:3-123.52)², no objective risk assessment shall be ²[included in
18 any report]² required ²[under the provisions of subsection a. of section
19 10 of P.L.1979, c.441 (C.30:4-123.54)]² until the first day of the sixth
20 month following enactment¹.

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25 Authorizes preparation of inmate risk-assessment and psychological
26 evaluations for Parole Board use.