

[Passed Both Houses]

[Second Reprint]

ASSEMBLY, No. 23

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# STATE OF NEW JERSEY

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INTRODUCED FEBRUARY 20, 1997

By Assemblymen DeSOPO, TALARICO, Blee, Assemblywoman Crecco, Assemblyman Geist, Assemblywoman Heck, Assemblymen LeFevre, Kramer, Azzolina, O'Toole, Zecker, Senators Kosco, Scott, Sinagra, Inverso, Matheussen, McGreevey and Baer

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, <sup>2</sup>[including any psychological  
16 reports prepared in connection with any court proceedings.]<sup>2</sup> 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, <sup>2</sup>[including any preparole psychological evaluations.]<sup>2</sup>  
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. <sup>2</sup>[In addition, the report shall include an objective risk  
24 assessment. The risk assessment, which shall be in a form prescribed

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:

<sup>1</sup> Assembly ALP committee amendments adopted March 3, 1997.

<sup>2</sup> Senate SLP committee amendments adopted June 16, 1997.

1 by the board pursuant to rule and regulation, shall consist of both  
2 static and dynamic factors which may assist the board panel in  
3 determining whether the inmate shall be certified for parole and, if  
4 paroled, the level of supervision the parolee may require. In addition  
5 to the information otherwise gathered for and incorporated in the pre-  
6 parole report, the assessment shall include evaluations of the inmate's  
7 ability to function independently, the inmate's educational and  
8 employment background, the inmate's family and marital history, and  
9 such other information and factors as the board may deem appropriate  
10 and necessary.] The preincarceration records of the inmate contained  
11 in the report shall include any psychological reports prepared in  
12 connection with any court proceedings.<sup>2</sup>

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

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

31 The board shall notify such person at his last known mailing  
32 address.

33 c. A copy of the report filed pursuant to subsection a. of this  
34 section, excepting those documents which have been classified as  
35 confidential pursuant to rules and regulations of the board or the  
36 Department of Corrections, shall be served on the inmate at the time  
37 it is filed with the board panel. The inmate may file with the board  
38 panel a written statement regarding the report, but shall do so within  
39 105 days prior to the primary parole eligibility date.

40 d. Upon receipt of the public notice pursuant to section 1 of  
41 P.L.1979, c.441 (C.30:4-123.45), a county prosecutor may request  
42 from the parole board a copy of the report on any adult inmate  
43 prepared pursuant to subsection a. of this section, which shall be  
44 expeditiously forwarded to the county prosecutor by the parole board  
45 by mail, courier, or other means of delivery. Upon receipt of the  
46 report, the prosecutor has 10 working days to review the report and

1 notify the parole board of the prosecutor's comments, if any, or notify  
2 the parole board of the prosecutor's intent to provide comments. If  
3 the county prosecutor does not provide comments or notify the parole  
4 board of the prosecutor's intent to provide comments within the 10  
5 working days, the parole board may presume that the prosecutor does  
6 not wish to provide comments and may proceed with the parole  
7 consideration. Any comments provided by a county prosecutor shall  
8 be delivered to the parole board by the same method by which the  
9 county prosecutor received the report. The confidentiality of the  
10 contents in a report which are classified as confidential shall be  
11 maintained and shall not be disclosed to any person who is not  
12 authorized to receive or review a copy of the report containing the  
13 confidential information.

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

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

19

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

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

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

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

44 d. At any time while an inmate is committed to the custody of the  
45 Commissioner of Corrections, the appropriate board panel<sup>1</sup> or the  
46 Parole Board<sup>1</sup> may require, as often as it deems necessary, that inmate

1 to undergo an in-depth preparole psychological evaluation <sup>1</sup>conducted  
2 by a psychologist employed by the Parole Board or, where appropriate  
3 after consultation with the Department of Corrections, by a  
4 psychologist at the Adult Diagnostic and Treatment Center, <sup>1</sup> to  
5 provide current and accurate information to assess the inmate's  
6 suitability for parole.

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

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

20  
21 3. Section 11 of PL.1979, c.441 (C.30:4-123.55) is amended to  
22 read as follows:

23 11. a. Prior to the parole eligibility date of each adult inmate, a  
24 designated hearing officer shall review the reports required by section  
25 10 of [this act] P.L.1979, c.441 (C.30:4-123.54), and shall determine  
26 whether there is a basis for denial of parole in the preparole report ,  
27 any risk-assessment prepared in accordance with the provisions of  
28 subsection <sup>2</sup>[b. of section 10 of P.L.1979, c.441 (C.30:3-123.54)] e.  
29 of section 8 of P.L.1979, c.441 (C.30:4-123.52) <sup>2</sup>, or the inmate's  
30 statement, or an indication, reduced to writing, that additional  
31 information providing a basis for denial of parole would be developed  
32 or produced at a hearing. If the hearing officer determines that there  
33 is no basis in the preparole report, the risk-assessment, or the inmate's  
34 statement for denial of parole and that there is no additional relevant  
35 information to be developed or produced at a hearing, he shall at least  
36 60 days prior to the inmate's parole eligibility date recommend in  
37 writing to the assigned member of the board panel that parole release  
38 be granted.

39 b. If the assigned member of the board panel or in the case of an  
40 inmate sentenced to a county penal institution, the assigned member  
41 concurs in the hearing officer's recommendation, he shall certify parole  
42 release pursuant to section 15 of [this act] P.L.1979, c.441 (C.30:4-  
43 123.59) as soon as practicable after the eligibility date and so notify  
44 the inmate and the board. In the case of an inmate sentenced to a  
45 county penal institution the board shall certify parole release or deny  
46 parole as provided by this section, except with regard to time periods

1 for notice and parole processing which are authorized by or otherwise  
2 adopted pursuant to subsection g. of section 7 of P.L.1979, c.441  
3 (C.30:4-123.51). If the designated hearing officer does not  
4 recommend release on parole or if the assigned member does not  
5 concur in a recommendation of the designated hearing officer in favor  
6 of release, then the parole release of an inmate in a county penal  
7 institution shall be treated under the provisions of law otherwise  
8 applicable to an adult inmate. In the case of an inmate sentenced to a  
9 county penal institution, the performance of public service for the  
10 remainder of the term of the sentence shall be a required condition of  
11 parole, where appropriate.

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

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

1 upon the inmate together with notice of his right to appeal to the  
2 board.

3 e. Upon request by the hearing officer or the inmate, the time  
4 limitations contained in ~~[sections]~~section 10 of P.L.1979, c.441  
5 (C.30:4-123.54) and ~~[11]~~ this section may be waived by the  
6 appropriate board panel for good cause.

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

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19 4. This act shall take effect immediately <sup>1</sup>; except that  
20 notwithstanding the provisions of subsection <sup>2</sup>[b. of section 10 of  
21 P.L.1979, c.441 (C.30:4-123.54)]e. of section 8 of P.L.1979, c.441  
22 (C.30:3-123.52)<sup>2</sup>, no objective risk assessment shall be <sup>2</sup>[included in  
23 any report]<sup>2</sup> required <sup>2</sup>[under the provisions of subsection a. of section  
24 10 of P.L.1979, c.441 (C.30:4-123.54)]<sup>2</sup> until the first day of the sixth  
25 month following enactment<sup>1</sup>.

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