

ASSEMBLY, No. 444

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Assemblymen ROMA and DeCROCE

1 AN ACT concerning parole eligibility and information available upon  
2 reconsideration and amending 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 11 of P.L.1979, c.441 (C.30:4-123.55) is amended to  
8 read as follows:

9 11. a. Prior to the parole eligibility date of each adult inmate, a  
10 designated hearing officer shall review the reports required by section  
11 10 of this act, and shall determine whether there is a basis for denial  
12 of parole in the preparole report or the inmate's statement based on the  
13 criteria set forth in section 9 of P.L.1979, c.441 (C.30:4-123.53), or  
14 an indication, reduced to writing, that additional information providing  
15 a basis for denial of parole would be developed or produced at a  
16 hearing. If the hearing officer determines that there is no basis in the  
17 preparole report or the inmate's statement for denial of parole and that  
18 there is no additional relevant information to be developed or  
19 produced at a hearing, he shall at least 60 days prior to the inmate's  
20 parole eligibility date recommend in writing to the assigned member of  
21 the board panel that parole release be granted.

22 b. If the assigned member of the board panel or in the case of an  
23 inmate sentenced to a county penal institution, the assigned member  
24 concurs in the hearing officer's recommendation, he shall certify parole  
25 release pursuant to section 15 of this act as soon as practicable after  
26 the eligibility date and so notify the inmate and the board. In the case  
27 of an inmate sentenced to a county penal institution the board shall  
28 certify parole release or deny parole as provided by this section, except  
29 with regard to time periods for notice and parole processing which are  
30 authorized by or otherwise adopted pursuant to subsection g. of  
31 section 7 of P.L.1979, c.441  
32 (C.30:4-123.51). If the designated hearing officer does not

**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 recommend release on parole based on the criteria set forth in section  
2 9 of P.L.1979, c.441 (C.30:4-123.53) or if the assigned member does  
3 not concur in a recommendation of the designated hearing officer in  
4 favor of release, then the parole release of an inmate in a county penal  
5 institution shall be treated under the provisions of law otherwise  
6 applicable to an adult inmate. In the case of an inmate sentenced to a  
7 county penal institution, the performance of public service for the  
8 remainder of the term of the sentence shall be a required condition of  
9 parole, where appropriate.

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

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

1 e. Upon request by the hearing officer or the inmate, the time  
2 limitations contained in sections 10 and 11 may be waived by the  
3 appropriate board panel for good cause.

4 f. Notwithstanding the provision of any other law to the contrary,  
5 if an inmate incarcerated for murder is recommended for parole by the  
6 assigned board member or the appropriate board panel, parole shall  
7 not be certified until a majority of the full parole board, after  
8 conducting a hearing, concurs in that recommendation. The board  
9 shall notify the victim's family of the hearing and family members shall  
10 be afforded the opportunity to testify in person or to submit written  
11 statements.

12 The provisions of this subsection shall not apply to an inmate who  
13 has his parole revoked and is returned to custody pursuant to the  
14 provisions of section 19 of P.L.1979, c.441 (C.30:4-123.63).

15 (cf: P.L.1993, c.222, s.1)

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

19 12. a. The board shall develop a schedule of future parole eligibility  
20 dates for adult inmates denied release at their eligibility date. In  
21 developing such schedule, particular emphasis shall be placed on the  
22 severity of the offense for which he was denied parole and on the  
23 characteristics of the offender, such as, but not limited to, the prior  
24 criminal record of the inmate and the need for continued incapacitation  
25 of the inmate.

26 b. If the release on the eligibility date is denied, the board panel  
27 which conducted the hearing shall refer to the schedule published  
28 pursuant to subsection a. of this section, and include in its statement  
29 denying parole notice of the date of future parole consideration. If  
30 such date differs from the date otherwise established by the schedule,  
31 the board panel shall include particular reasons therefor. Such future  
32 parole eligibility date shall take into account usual remissions of  
33 sentence for good behavior and diligent application to work and other  
34 assignments. Such future parole eligibility date may also be altered  
35 pursuant to section 8 of [this act] of P.L.1979, c.441 (C.30:4-123.52).

36 c. An inmate shall be released on parole on the new parole  
37 eligibility date unless [new] information filed pursuant to a procedure  
38 identical to that set forth in section 10 of P.L.1979, c.441  
39 (C.30:4-123.54) indicates by a preponderance of the evidence that  
40 there is a substantial likelihood that the inmate will commit a crime  
41 under the laws of this State. The [determination of whether there is  
42 such an indication in the new preparole report or whether there is  
43 additional relevant information to be developed or produced at a  
44 hearing, and the] determination of whether the inmate shall be released  
45 on the new parole eligibility date shall be made pursuant to the  
46 procedure set forth in [sections] section 11 of P.L.1979, c.441

1 (C.30:4-123.55) and [12] this section.

2 (cf: P.L.1979, c.441, s.12)

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

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STATEMENT

10 This bill would give the parole board more discretion in reviewing  
11 the case of an inmate who has been previously denied parole.  
12 Currently, the parole board is required to allow the inmate to be  
13 released on parole unless new information obtained in a new preparole  
14 report indicates that the inmate should not be released. Under the  
15 provisions of this bill, the parole board would not be required to base  
16 its decision on any new information in the report, but rather it could  
17 base its determination on the existing information in the preparole  
18 report.

19 This bill clarifies what the basis for denial of parole initially is by  
20 adding language to section 11 of P.L.1979, c.441. The committee  
21 notes that Assembly Bill No. 2098 has passed the Assembly and is  
22 currently on second reading in the Senate and will provide additional  
23 criteria in section 9 of P.L.1979, c.441.

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28 Eliminates requirement that new information be developed for  
29 reconsideration of parole; clarifies basis for denial of parole initially.