

# ASSEMBLY, No. 489

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## STATE OF NEW JERSEY

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INTRODUCED MAY 6, 1996

By Assemblymen WEINGARTEN, O'TOOLE, Assemblywoman  
J. Smith, Assemblymen Roma, DiGaetano, Azzolina, DeSopo,  
Asselta, Blee, T. Smith, Corodemus, Lance, Geist, Zecker,  
Assemblywomen Crecco, Heck, Assemblymen Malone, Cottrell,  
Gibson, Assemblywoman Allen, Assemblymen LeFevre and  
Kelly

1    **AN ACT** concerning preparole and presentence reports and amending  
2    P.L.1979, c.441 and N.J.S.2C:44-6.

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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 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, including any history of civil  
commitment or other disposition which arose out of any charges  
suspended pursuant to N.J.S.2C:4-6 including records of the  
disposition of those charges and any acquittals by reason of insanity  
pursuant to N.J.S.2C:4-1, state the conduct of the inmate during the  
20   current period of confinement, include a complete report on the  
21   inmate's social[,] and physical [and mental] condition, include a  
complete psychiatric evaluation of the inmate, include an investigation  
23   by the Bureau of Parole of the inmate's parole plans, and present  
24   information bearing upon the likelihood that the inmate will commit a  
25   crime under the laws of this State if released on parole.

26              (2) At the time of sentencing, the prosecutor shall notify any victim  
27   injured as a result of a crime of the first or second degree or the  
28   nearest relative of a murder victim of the opportunity to present a  
29   statement for the parole report to be considered at the parole hearing

**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 or to testify to the parole board concerning his harm at the time of the  
2 parole hearing. Each victim or relative shall be responsible for  
3 notifying the board of his intention to submit such a statement and to  
4 provide an appropriate mailing address.

5       The report may include a statement concerning the continuing  
6 nature and extent of any physical harm or psychological or emotional  
7 harm or trauma suffered by the victim, the extent of any loss of  
8 earnings or ability to work suffered by the victim and the continuing  
9 effect of the crime upon the victim's family. At the time public notice  
10 is given that an inmate is being considered for parole pursuant to this  
11 section, the board shall also notify any victim or nearest relative who  
12 has previously contacted the board of the availability to provide a  
13 statement for inclusion in the parole report or to present testimony at  
14 the parole hearing.

15      The board shall notify such person at his last known mailing  
16 address.

17       c. A copy of the report filed pursuant to subsection a. of this  
18 section, excepting those documents which have been classified as  
19 confidential pursuant to rules and regulations of the board or the  
20 Department of Corrections, shall be served on the inmate at the time  
21 it is filed with the board panel. The inmate may file with the board  
22 panel a written statement regarding the report, but shall do so within  
23 105 days prior to the primary parole eligibility date.

24       d. Upon receipt of the public notice pursuant to section 1 of  
25 P.L.1979, c.441 (C.30:4-123.45), a county prosecutor may request  
26 from the parole board a copy of the report on any adult inmate  
27 prepared pursuant to subsection a. of this section, which shall be  
28 expeditiously forwarded to the county prosecutor by the parole board  
29 by mail, courier, or other means of delivery. Upon receipt of the  
30 report, the prosecutor has 10 working days to review the report and  
31 notify the parole board of the prosecutor's comments, if any, or notify  
32 the parole board of the prosecutor's intent to provide comments. If  
33 the county prosecutor does not provide comments or notify the parole  
34 board of the prosecutor's intent to provide comments within the 10  
35 working days, the parole board may presume that the prosecutor does  
36 not wish to provide comments and may proceed with the parole  
37 consideration. Any comments provided by a county prosecutor shall  
38 be delivered to the parole board by the same method by which the  
39 county prosecutor received the report. The confidentiality of the  
40 contents in a report which are classified as confidential shall be  
41 maintained and shall not be disclosed to any person who is not  
42 authorized to receive or review a copy of the report containing the  
43 confidential information.

44       e. Any provision of this section to the contrary notwithstanding,  
45 the board shall by rule or regulation modify the scope of the required  
46 reports and time periods for rendering such reports with reference to

1 county penal institutions.

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

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4 2. N.J.S.2C:44-6 is amended to read as follows:

5 2C:44-6. Procedure on Sentence; Presentence Investigation and  
6 Report.

7 a. The court shall not impose sentence without first ordering a  
8 presentence investigation of the defendant and according due  
9 consideration to a written report of such investigation when required  
10 by the Rules of Court. The court may order a presentence  
11 investigation in any other case.

12 b. The presentence investigation shall include an analysis of the  
13 circumstances attending the commission of the offense, the defendant's  
14 history of delinquency or criminality, family situation, financial  
15 resources, including whether or not the defendant is an enrollee or  
16 covered person under a health insurance contract, policy or plan,  
17 debts, including any amount owed for a fine, assessment or restitution  
18 ordered in accordance with the provisions of Title 2C, employment  
19 history, personal habits, the disposition of any charge made against any  
20 codefendants [and may include a report on his physical and mental  
21 condition], the defendant's history of civil commitment or other  
22 disposition if any, which arose out of charges suspended pursuant to  
23 N.J.S.2C:4-6 including the records of the disposition of those charges  
24 and any acquittal by reason of insanity pursuant to N.J.S.2C:4-1, and  
25 any other matters that the probation officer deems relevant or the  
26 court directs to be included. The report shall also include a medical  
27 history of the defendant and a complete psychiatric evaluation of the  
28 defendant. In any case involving a conviction of N.J.S.2C:24-4,  
29 endangering the welfare of a child; N.J.S.2C:18-3, criminal trespass,  
30 where the trespass was committed in a school building or on school  
31 property; section 1 of P.L.1993, c.291 (C.2C:13-6), attempting to lure  
32 or entice a child with purpose to commit a criminal offense; section 1  
33 of P.L.1992, c.209 (C.2C:12-10), stalking; or N.J.S.2C:13-1,  
34 kidnapping, where the victim of the offense is a child under the age of  
35 18, the investigation shall include a report on the defendant's mental  
36 condition [ unless the court directs otherwise].

37 The presentence report shall also include a report on any  
38 compensation paid by the Victims of Crime Compensation Board as a  
39 result of the commission of the offense and, in any case where the  
40 victim chooses to provide one, a statement by the victim of the offense  
41 for which the defendant is being sentenced. The statement may  
42 include the nature and extent of any physical harm or psychological or  
43 emotional harm or trauma suffered by the victim, the extent of any loss  
44 to include loss of earnings or ability to work suffered by the victim and  
45 the effect of the crime upon the victim's family. The probation  
46 department shall notify the victim or nearest relative of a homicide

1 victim of his right to make a statement for inclusion in the presentence  
2 report if the victim or relative so desires. Any such statement shall be  
3 made within 20 days of notification by the probation department.

4 The presentence report shall specifically include an assessment of  
5 the gravity and seriousness of harm inflicted on the victim, including  
6 whether or not the defendant knew or reasonably should have known  
7 that the victim of the offense was particularly vulnerable or incapable  
8 of resistance due to advanced age, disability, ill-health, or extreme  
9 youth, or was for any other reason substantially incapable of exercising  
10 normal physical or mental power of resistance.

11 c. If, after the presentence investigation, the court desires  
12 additional information concerning an offender convicted of an offense  
13 before imposing sentence, it may order [that he be examined as to his  
14 medical or mental condition, except that he may not be committed to  
15 an institution for such examination] any additional psychiatric or  
medical testing of the defendant.

17 d. Disclosure of any presentence investigation report or psychiatric  
18 examination report shall be in accordance with law and the Rules of  
19 Court, except that information concerning the defendant's financial  
20 resources shall be made available upon request to the Victims of Crime  
21 Compensation Board or to any officer authorized under the provisions  
22 of section 3 of P.L.1979, c.396 (C.2C:46-4) to collect payment on an  
23 assessment, restitution or fine and that information concerning the  
24 defendant's coverage under any health insurance contract, policy or  
25 plan shall be made available, as appropriate to the Commissioner of the  
26 Department of Corrections and to the chief administrative officer of a  
27 county jail in accordance with the provisions of P.L.1995, c.254  
28 (C.30:7E-1 et al.).

29 e. The court shall not impose a sentence of imprisonment for an  
30 extended term unless the ground therefor has been established at a  
31 hearing after the conviction of the defendant and on written notice to  
32 him of the ground proposed. The defendant shall have the right to  
33 hear and controvert the evidence against him and to offer evidence  
34 upon the issue.

35 f. (Deleted by amendment, P.L.1986, c.85).

36 (cf: P.L.1995, c.254, s.7)

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38 3. This act shall take effect immediately.

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41 STATEMENT

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43 This bill incorporates the recommendations of the New Jersey's  
44 Supreme Court's "Committee to Review the Conrad Jeffrey Matter"  
45 which issued a report dated October, 1995. The Committee  
46 recommended that information concerning the psychological make-up

1 and behavior of the defendant is vital and should be included in the  
2 criminal record of the defendant. This bill would require the preparole  
3 report and the presentence report to include information concerning  
4 the defendant's psychiatric background.

5 With regard to preparole reports, this bill would require that the  
6 report include information concerning any history of civil  
7 commitment or other disposition which arose out of charges  
8 suspended pursuant to N.J.S.2C:4-6, including records of the  
9 disposition of those charges and any acquittals by reason of insanity  
10 pursuant to N.J.S.2C:4-1. Under N.J.S.2C:4-6, a defendant found  
11 mentally incompetent to stand trial may have the charges against him  
12 suspended while he is either committed to a psychiatric institution,  
13 placed in an out patient setting or released. After a period of time, if  
14 the defendant does not become competent to stand trial the court may  
15 dismiss the charges. In addition the bill requires the preparole report  
16 to include a complete psychiatric evaluation of the inmate.

17 The bill would also require that presentence reports include  
18 information concerning any history of civil commitment or other  
19 dispositon, which arose out of charges suspended pursuant to  
20 N.J.S.2C:4-6, including the records of the disposition of those  
21 charges, and any acquittal by reason of insanity pursuant to  
22 N.J.S.2C:4-1, including the records of the disposition of those  
23 charges. The bill would also require all presentence reports to include  
24 a medical history of the defendant and a complete psychiatric  
25 evaluation of the defendant. In addition, the bill would authorize the  
26 court, after the presentence investigation has been made, to order  
27 additional psychiatric and medical testing of the defendant.

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32 Requires preparole and presentence reports to include disposition of  
33 prior charges suspended due to mental incompetency; requires  
34 defendants and inmates to undergo psychiatric examinations under  
35 certain circumstances.