

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, Nos. 489 and 685

STATE OF NEW JERSEY

ADOPTED MAY 20, 1996

Sponsored by Assemblymen WEINGARTEN, O'TOOLE and
ZISA

1 AN ACT concerning parole 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
16 commitment or other disposition which arose out of any charges
17 suspended pursuant to N.J.S.2C:4-6 including records of the
18 disposition of those charges and any acquittals by reason of insanity
19 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
22 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
27 victim 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
30 or to testify to the parole board concerning his harm at the time of the
31 parole hearing. Each victim or relative shall be responsible for
32 notifying the board of his intention to submit such a statement and to

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 provide an appropriate mailing address.

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

12 The board shall notify such person at his last known mailing
13 address.

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

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

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

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

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

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

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

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

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

1 made within 20 days of notification by the probation department.

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

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

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

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

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

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

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36 3. This act shall take effect immediately.

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41 Requires preparole and presentence reports to include disposition of
42 prior charges suspended due to mental incompetency; requires
43 defendants and inmates to undergo psychiatric examinations under
44 certain circumstances.