

ASSEMBLY, No. 2516

STATE OF NEW JERSEY

INTRODUCED DECEMBER 5, 1996

By Assemblyman **KRAMER**, Assemblywomen **WRIGHT**,
Vandervalk, Assemblymen **Arnone**, **Corodemus**, **Gregg**,
Garrett, **Lance** and Assemblywoman **Heck**

1 AN ACT concerning certain prison inmates, amending P.L.1979, c.441
2 and supplementing Title 30 of the Revised Statutes.

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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. (New section) Notwithstanding the provisions of section 7 of
8 P.L.1979, c.441 (C.30:4-123.51), R.S.30:4-140, R.S.30:4-92 or any
9 other law to the contrary, progressive time credits or credits for
10 diligent application to work shall be forfeited as a penalty for
11 misconduct if an inmate violates or attempts to violate:

12 a. Any restraining order imposed upon him, including but not
13 limited to any restraining order imposed pursuant to the "Prevention
14 of Domestic Violence Act of 1991," P.L.1991, c.261 (C.2C:25-17 et
15 seq.) or P.L.1981, c.426 (C.2C:25-1 et al.); or

16 b. The provisions of N.J.S.2C:12-3, terroristic threats; 2C:33-4,
17 harassment; or P.L.1992, c.209 (C.2C:12-10), stalking, committed
18 against a person who was a victim of, or a witness to, the offense for
19 which the inmate is incarcerated.

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21 2. Section 7 of P.L.1979, c.441 (C.30:4-123.51) is amended to
22 read as follows:

23 7. a. Each adult inmate sentenced to a term of incarceration in a
24 county penal institution, or to a specific term of years at the State
25 Prison or the correctional institution for women shall become primarily
26 eligible for parole after having served any judicial or statutory
27 mandatory minimum term, or one-third of the sentence imposed where
28 no mandatory minimum term has been imposed less commutation time
29 for good behavior pursuant to N.J.S.2A:164-24 or R.S.30:4-140 and
30 credits for diligent application to work and other institutional
31 assignments pursuant to P.L.1972, c.115 (C.30:8-28.1 et seq.) or
32 R.S.30:4-92. Consistent with the provisions of the New Jersey Code

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 of Criminal Justice (N.J.S.2C:11-3, 2C:14-6, 2C:43-6, 2C:43-7),
2 commutation and work credits shall not in any way reduce any judicial
3 or statutory mandatory minimum term and such credits accrued shall
4 only be awarded subsequent to the expiration of the term.

5 b. Each adult inmate sentenced to a term of life imprisonment shall
6 become primarily eligible for parole after having served any judicial or
7 statutory mandatory minimum term, or 25 years where no mandatory
8 minimum term has been imposed less commutation time for good
9 behavior and credits for diligent application to work and other
10 institutional assignments. If an inmate sentenced to a specific term or
11 terms of years is eligible for parole on a date later than the date upon
12 which he would be eligible if a life sentence had been imposed, then in
13 such case the inmate shall be eligible for parole after having served 25
14 years, less commutation time for good behavior and credits for diligent
15 application to work and other institutional assignments. Consistent
16 with the provisions of the New Jersey Code of Criminal Justice
17 (N.J.S.2C:11-3, 2C:14-6, 2C:43-6, 2C:43-7), commutation and work
18 credits shall not in any way reduce any judicial or statutory mandatory
19 minimum term and such credits accrued shall only be awarded
20 subsequent to the expiration of the term.

21 c. Each inmate sentenced to a specific term of years pursuant to the
22 "Controlled Dangerous Substances Act," P.L.1970, c.226 (C.24:21-1
23 through 45) shall become primarily eligible for parole after having
24 served one-third of the sentence imposed less commutation time for
25 good behavior and credits for diligent application to work and other
26 institutional assignments.

27 d. Each adult inmate sentenced to an indeterminate term of years
28 as a young adult offender pursuant to N.J.S.2C:43-5 shall become
29 primarily eligible for parole consideration pursuant to a schedule of
30 primary eligibility dates developed by the board, less adjustment for
31 program participation. In no case shall the board schedule require that
32 the primary parole eligibility date for a young adult offender be greater
33 than the primary parole eligibility date required pursuant to this section
34 for the presumptive term for the crime authorized pursuant to
35 N.J.S.2C:44-1(f).

36 e. Each adult inmate sentenced to the Adult Diagnostic and
37 Treatment Center, Avenel, shall become primarily eligible for parole
38 upon recommendation by the special classification review board
39 pursuant to N.J.S.2C:47-5, except that no such inmate shall become
40 primarily eligible prior to the expiration of any mandatory or fixed
41 minimum term imposed pursuant to N.J.S.2C:14-6.

42 f. Each juvenile inmate committed to an indeterminate term shall
43 be immediately eligible for parole.

44 g. Each adult inmate of a county jail, workhouse or penitentiary
45 shall become primarily eligible for parole upon service of 60 days of
46 his aggregate sentence or as provided for in subsection a. of this

1 section, whichever is greater. Whenever any such inmate's parole
2 eligibility is within six months of the date of such sentence, the judge
3 shall state such eligibility on the record which shall satisfy all public
4 and inmate notice requirements. The chief executive officer of the
5 institution in which county inmates are held shall generate all reports
6 pursuant to subsection d. of section 10 of P.L.1979, c.441
7 (C.30:4-123.54). The parole board shall have the authority to
8 promulgate time periods applicable to the parole processing of inmates
9 of county penal institutions, except that no inmate may be released
10 prior to the primary eligibility date established by this subsection,
11 unless consented to by the sentencing judge. No inmate sentenced to
12 a specific term of years at the State Prison or the correctional
13 institution for women shall become primarily eligible for parole until
14 service of a full nine months of his aggregate sentence.

15 h. When an inmate is sentenced to more than one term of
16 imprisonment, the primary parole eligibility terms calculated pursuant
17 to this section shall be aggregated by the board for the purpose of
18 determining the primary parole eligibility date, except that no juvenile
19 commitment shall be aggregated with any adult sentence. The board
20 shall promulgate rules and regulations to govern aggregation under
21 this subsection.

22 i. The primary eligibility date shall be computed by a designated
23 representative of the board and made known to the inmate in writing
24 not later than 90 days following the commencement of the sentence.
25 In the case of an inmate sentenced to a county penal institution such
26 notice shall be made pursuant to subsection g. of this section. Each
27 inmate shall be given the opportunity to acknowledge in writing the
28 receipt of such computation. Failure or refusal by the inmate to
29 acknowledge the receipt of such computation shall be recorded by the
30 board but shall not constitute a violation of this subsection.

31 j. Except as provided in this subsection, each inmate sentenced
32 pursuant to N.J.S.2A:113-4 for a term of life imprisonment,
33 N.J.S.2A:164-17 for a fixed minimum and maximum term or
34 N.J.S.2C:1-1(b) shall not be primarily eligible for parole on a date
35 computed pursuant to this section, but shall be primarily eligible on a
36 date computed pursuant to P.L.1948, c.84 (C.30:4-123.1 et seq.),
37 which is continued in effect for this purpose. Inmates classified as
38 second, third or fourth offenders pursuant to section 12 of P.L.1948,
39 c.84 (C.30:4-123.12) shall become primarily eligible for parole after
40 serving one-third, one-half or two-thirds of the maximum sentence
41 imposed, respectively, less in each instance commutation time for good
42 behavior and credits for diligent application to work and other
43 institutional assignments; provided, however, that if the prosecuting
44 attorney or the sentencing court advises the board that the punitive
45 aspects of the sentence imposed on such inmates will not have been
46 fulfilled by the time of parole eligibility calculated pursuant to this

1 subsection, then the inmate shall not become primarily eligible for
2 parole until serving an additional period which shall be one-half of the
3 difference between the primary parole eligibility date calculated
4 pursuant to this subsection and the parole eligibility date calculated
5 pursuant to section 12 of P.L.1948, c.84 (C.30:4-123.12). If the
6 prosecuting attorney or the sentencing court advises the board that the
7 punitive aspects of the sentence have not been fulfilled, such advice
8 need not be supported by reasons and will be deemed conclusive and
9 final. Any such decision shall not be subject to judicial review except
10 to the extent mandated by the New Jersey and United States
11 Constitutions. The board shall, reasonably prior to considering any
12 such case, advise the prosecuting attorney and the sentencing court of
13 all information relevant to such inmate's parole eligibility.

14 k. Notwithstanding the provisions of this section or any other law
15 to the contrary, an inmate shall not be eligible for parole if, at any
16 time during his incarceration, he violates or attempts to violate:

17 a. Any restraining order imposed upon him, including but not
18 limited to any restraining order imposed pursuant to the "Prevention
19 of Domestic Violence Act of 1991," P.L.1991, c.261 (C.2C:25-17 et
20 seq.) or P.L.1981, c.426 (C.2C:25-1 et al.); or

21 b. The provisions of N.J.S.2C:12-3, terroristic threats; 2C:33-4,
22 harassment; or P.L.1992, c.209 (C.2C:12-10), stalking, committed
23 against a person who was a victim of, or a witness to, the offense for
24 which the inmate is incarcerated.

25 (cf: P.L.1982, c.71, s.2)

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27 3. Section 16 of P.L.1979, c.441 (C.30:4-123.60) is amended to
28 read as follows:

29 16. a. Any parolee who violates a condition of parole may be
30 subject to an order pursuant to section 17 of P.L.1979, c.441
31 (C.30:4-123.61) providing for one or more of the following: (1) That
32 he be required to conform to one or more additional conditions of
33 parole; (2) That he forfeit all or a part of commutation time credits
34 granted pursuant to R.S.30:4-140.

35 b. Any parolee who has seriously or persistently violated the
36 conditions of his parole, may have his parole revoked and may be
37 returned to custody pursuant to sections 18 and 19 of P.L.1979, c.441
38 (C.30:4-123.62 and 30:4-123.63). The board shall be notified
39 immediately upon the arrest or indictment of a parolee or upon the
40 filing of charges that the parolee committed an act which, if committed
41 by an adult, would constitute a crime. The board shall not revoke
42 parole on the basis of new charges which have not resulted in a
43 disposition at the trial level except that upon application by the
44 prosecuting authority, the Juvenile Justice Commission established
45 pursuant to section 2 of P.L.1995, c.284 (C.52:17B-170) or the Chief
46 of the Bureau of Parole, the chairman of the board or his designee may

1 at any time detain the parolee and commence revocation proceedings
2 pursuant to sections 18 and 19 of P.L.1979, c.441 (C.30:4-123.62 and
3 30:4-123.63) when the chairman determines that the new charges
4 against the parolee are of a serious nature and it appears that the
5 parolee otherwise poses a danger to the public safety. In such cases,
6 a parolee shall be informed that, if he testifies at the revocation
7 proceedings, his testimony and the evidence derived therefrom shall
8 not be used against him in a subsequent criminal prosecution or
9 delinquency adjudication.

10 c. [Any] (1) Except as provided in paragraph 2 of this subsection,
11 any parolee who is convicted of a crime or adjudicated delinquent for
12 an act which, if committed by an adult, would constitute a crime,
13 committed while on parole shall have his parole revoked and shall be
14 returned to custody unless the parolee demonstrates, by clear and
15 convincing evidence at a hearing pursuant to section 19 of P.L.1979,
16 c.441 (C.30:4-123.63), that good cause exists why he should not be
17 returned to confinement.

18 (2) Any parolee who, while on parole:

19 (a) Commits a violation of any restraining order imposed upon him,
20 including but not limited to any restraining order imposed pursuant to
21 the "Prevention of Domestic Violence Act of 1991," P.L.1991, c.261
22 (C.2C:25-17 et seq.) or P.L.1981, c.426 (C.2C:25-1 et al.); or

23 (b) Is convicted of a crime or the offense of harassment committed
24 against a victim of or a witness to, the offense for which the inmate
25 was incarcerated,

26 shall have his parole revoked and shall be returned to custody.

27 (cf: P.L.1995, c.280, s.40)

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29 4. This act shall take effect immediately.
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32 STATEMENT

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34 This bill would eliminate parole eligibility and "good time" credits
35 for inmates who violate restraining orders or harass or threaten their
36 victims from prison. Under the bill, an inmate who violates any
37 restraining order imposed upon him under the domestic violence
38 statutes or under any other provision of law, or who commits
39 terroristic threats, harassment or stalking against a victim of, or
40 witness to, the original offense for which he is incarcerated, would
41 forfeit progressive time credits and eligibility for parole.

42 The bill also provides that an inmate who is released on parole and
43 commits any of these acts or any other crime against the victim or
44 witness to the original offense would automatically have his parole
45 revoked and be returned to prison. Under current law, a parolee who
46 is convicted of a crime committed while on parole can avoid parole

1 revocation if he can demonstrate at a hearing, by clear and convincing
2 evidence, "that good cause exists why he should not be returned to
3 confinement." Under this bill, a parolee who violates a restraining
4 order, harasses or commits any other crime against a victim or witness
5 will not have this opportunity but will automatically be returned to
6 prison.

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11 Eliminates parole eligibility and "good time" credits for inmates who
12 harass or threaten their victims from prison.