

P.L. 1997, CHAPTER 214, *approved August 19, 1997*
Assembly Committee Substitute (*First Reprint*) for
Assembly, No. 22

1 AN ACT concerning medical parole and supplementing 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. (New section) a. (1) For the purpose of this section, "terminal
8 condition, disease or syndrome" means a prognosis by the licensed
9 physicians designated by the Commissioner of Corrections pursuant to
10 subsection b. of this section that an inmate has six months or less to
11 live.

12 (2) Except as otherwise provided in paragraph (3) of this
13 subsection, the appropriate board panel may release on medical parole
14 any inmate serving any sentence of imprisonment who has been
15 diagnosed pursuant to subsection b. of this section as suffering from
16 a terminal condition, disease or syndrome and is found by the
17 appropriate board panel to be so debilitated or incapacitated by the
18 terminal condition, disease or syndrome as to be permanently
19 physically incapable of committing a crime if released on parole.
20 Notwithstanding any provision of P.L.1979, c.441 (C.30:4-123.45 et
21 seq.) to the contrary, the appropriate board panel may release any such
22 inmate at any time during the term of the sentence. ¹An inmate placed
23 on parole pursuant to this section shall be subject to custody,
24 supervision and conditions as provided in section 15 of P.L.1979,
25 c.441 (C.30:3-123.59) and shall be subject to sanctions for a violation
26 of a condition of parole as provided in sections 16 through 21 of
27 P.L.1979, c.441 (C.30:4-123.60 through 30:4-123.65).¹

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate SLP committee amendments adopted June 16, 1997.

1 (3) No inmate serving any sentence for a violation of N.J.S.2C:11-
2 3; N.J.S.2C:11-4; N.J.S.2C:13-1; subsection a. of N.J.S.2C:14-2;
3 N.J.S.2C:15-1 in which the inmate, while in the course of committing
4 the theft, attempted to kill another, or purposely inflicted or attempted
5 to inflict serious bodily injury, or was armed with or used or
6 threatened the immediate use of a deadly weapon; subsection a. of
7 N.J.S.2C:17-1; or N.J.S.2C:24-4 or an attempt to commit any of these
8 offenses shall be eligible for the medical parole authorized under
9 paragraph (2) of this section.

10 b. A medical diagnosis that an inmate is suffering from a terminal
11 condition, disease or syndrome shall be made by two licensed
12 physicians designated by the Commissioner of Corrections. The
13 diagnosis shall include, but not be limited to:

14 (1) a description of the terminal condition, disease or syndrome;

15 (2) a prognosis concerning the likelihood of recovery from the
16 terminal condition, disease or syndrome;

17 (3) a description of the inmate's physical incapacity; and

18 (4) a description of the type of ongoing treatment that would be
19 required if the inmate were released on medical parole.

20 c. A request for a medical diagnosis to determine whether an
21 inmate is eligible for a medical parole under this section may be
22 submitted to the appropriate board panel by the Commissioner of
23 Corrections, the administrator or superintendent of a correctional
24 facility; the inmate; a member of the inmate's family or the inmate's
25 attorney. The request shall be submitted in a manner and form
26 prescribed by the board.

27 d. At least five working days prior to commencing its review of a
28 request for a medical parole, the appropriate board panel shall notify
29 the appropriate sentencing court; county prosecutor or, if the matter
30 was prosecuted by the Attorney General, the Attorney General; and
31 any victim or member of the family of a victim entitled to notice
32 relating to a parole or the consideration of a parole under the
33 provisions of P.L.1979, c.441 (C.30:4-123.45 et seq.). The notice
34 shall be given in the manner prescribed by the board and shall contain
35 all such information and documentation relating to the medical
36 diagnosis prepared pursuant to subsection b. of this section as the
37 board shall deem appropriate and necessary.

38 Upon receipt of the notice, the sentencing court; county prosecutor
39 or Attorney General, as the case may be; the victim or member of the
40 family of the victim, as the case may be, shall have 10 working days
41 to review the notice and submit comments to the appropriate board
42 panel. If a recipient of the notice does ¹not¹ submit comments within
43 that 10 day period following the receipt of the notice, the panel may
44 presume that the recipient does not wish to submit comments and
45 proceed with its consideration of the request for medical parole. Any
46 comments provided by a recipient shall be delivered to the appropriate

1 board panel in the same manner or by the same method as notice was
2 given by the panel to that recipient.

3 The information ¹[contain] contained¹ in any notice given by a
4 panel pursuant to this subsection and the contents of any comments
5 submitted by a recipient in response thereto shall be confidential and
6 shall not be disclosed to any person who is not authorized to receive
7 or review that information ¹[of] or¹ those comments.

8 Notice given under the provisions of this subsection shall be in lieu
9 of any other notice of parole consideration required under P.L.1979,
10 c.441 (C.30:4-123.45 et seq.).

11 Nothing in this subsection shall be construed to impair any party's
12 right to be heard pursuant to P.L.1979, c.441 (C.30:4-123.45 et seq.).

13 e. The appropriate board panel shall conduct its review of a
14 request for medical parole as expeditiously as possible.

15 The appropriate board panel shall provide written notice of its
16 decision to the sentencing court; the county prosecutor or Attorney
17 General, as the case may be; and any victim or member of a victim's
18 family given notice pursuant to subsection d. of this section.

19 f. Whenever an inmate is granted medical parole pursuant to this
20 section, the appropriate board shall require, as a condition precedent
21 to release, that the inmate's release plan include:

22 (1) identification of a community sponsor;

23 (2) verification of the availability of appropriate medical services
24 sufficient to meet the treatment requirements identified pursuant to
25 paragraph (4) of subsection b. of this section; and

26 (3) verification of appropriate housing which may include, but
27 ¹need¹ not be limited to, a hospital, hospice, nursing home facility or
28 other housing accommodation suitable to the inmate's medical
29 condition, disease or syndrome.

30 g. ¹[As] In addition to any conditions imposed pursuant to
31 section 15 of P.L.1979, c.441 (C.30:4-123.59), as¹ a condition of
32 release on medical parole, the appropriate board panel may require an
33 inmate to submit to periodic medical diagnoses by a licensed physician.

34 h. If, after review of a medical diagnosis required under the
35 provisions of subsection g. of this section, the appropriate board panel
36 determines that a parolee released on medical parole is no longer so
37 debilitated or incapacitated by a terminal condition, disease or
38 syndrome as to be physically incapable ¹[or] of¹ committing a crime,
39 ¹[or if a parolee released on medical parole commits a new crime,]¹
40 the parolee shall be returned to confinement in an appropriate facility
41 designated by the Commissioner of Corrections.

42 A decision to return the parolee to confinement pursuant to this
43 subsection shall be rendered only after a hearing by the appropriate
44 board panel or by a hearing officer designated by the chairman of the
45 board. ¹Nothing in this subsection shall be construed to limit the
46 authority of the board, an appropriate board panel or any parole

1 officer to address a violation of a condition of parole pursuant to
2 sections 16 through 21 of P.L.1979, c.441 (C.30:4-123.60 through
3 30:4-123.65).¹

4 i. The denial of a request for medical parole or the return of a
5 parolee to confinement under the provisions of subsection h. of this
6 section shall not preclude that inmate from being considered for parole
7 pursuant to subsection a. of section 7 of P.L.1979, c.441 (C.30:4-
8 123.51).

9
10 2. Section 7 of P.L.1979, c.441 (C.30:4-123.51) is amended to
11 read as follows:

12 7. a. Each adult inmate sentenced to a term of incarceration in a
13 county penal institution, or to a specific term of years at the State
14 Prison or the correctional institution for women shall become primarily
15 eligible for parole after having served any judicial or statutory
16 mandatory minimum term, or one-third of the sentence imposed where
17 no mandatory minimum term has been imposed less commutation time
18 for good behavior pursuant to N.J.S.2A:164-24 or R.S.30:4-140 and
19 credits for diligent application to work and other institutional
20 assignments pursuant to P.L.1972, c. 115 (C. 30:8-28.1 et seq.) or
21 R.S.30:4-92. Consistent with the provisions of the New Jersey Code
22 of Criminal Justice (N.J.S.2C:11-3, 2C:14-6, 2C:43-6, 2C:43-7),
23 commutation and work credits shall not in any way reduce any judicial
24 or statutory mandatory minimum term and such credits accrued shall
25 only be awarded subsequent to the expiration of the term.

26 b. Each adult inmate sentenced to a term of life imprisonment shall
27 become primarily eligible for parole after having served any judicial or
28 statutory mandatory minimum term, or 25 years where no mandatory
29 minimum term has been imposed less commutation time for good
30 behavior and credits for diligent application to work and other
31 institutional assignments. If an inmate sentenced to a specific term or
32 terms of years is eligible for parole on a date later than the date upon
33 which he would be eligible if a life sentence had been imposed, then in
34 such case the inmate shall be eligible for parole after having served 25
35 years, less commutation time for good behavior and credits for
36 diligent application to work and other institutional assignments.
37 Consistent with the provisions of the New Jersey Code of Criminal
38 Justice (N.J.S.2C:11-3, 2C:14-6, 2C:43-6, 2C:43-7), commutation and
39 work credits shall not in any way reduce any judicial or statutory
40 mandatory minimum term and such credits accrued shall only be
41 awarded subsequent to the expiration of the term.

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

1 other institutional assignments.

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

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

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

19 g. Each adult inmate of a county jail, workhouse or penitentiary
20 shall become primarily eligible for parole upon service of 60 days of
21 his aggregate sentence or as provided for in subsection a. of this
22 section, whichever is greater. Whenever any such inmate's parole
23 eligibility is within six months of the date of such sentence, the judge
24 shall state such eligibility on the record which shall satisfy all public
25 and inmate notice requirements. The chief executive officer of the
26 institution in which county inmates are held shall generate all reports
27 pursuant to subsection d. of section 10 of P.L.1979, c.441
28 (C.30:4-123.54). The parole board shall have the authority to
29 promulgate time periods applicable to the parole processing of inmates
30 of county penal institutions, except that no inmate may be released
31 prior to the primary eligibility date established by this subsection,
32 unless consented to by the sentencing judge. No inmate sentenced to
33 a specific term of years at the State Prison or the correctional
34 institution for women shall become primarily eligible for parole until
35 service of a full nine months of his aggregate sentence.

36 h. When an inmate is sentenced to more than one term of
37 imprisonment, the primary parole eligibility terms calculated pursuant
38 to this section shall be aggregated by the board for the purpose of
39 determining the primary parole eligibility date, except that no juvenile
40 commitment shall be aggregated with any adult sentence. The board
41 shall promulgate rules and regulations to govern aggregation under
42 this subsection.

43 i. The primary eligibility date shall be computed by a designated
44 representative of the board and made known to the inmate in writing
45 not later than 90 days following the commencement of the sentence.
46 In the case of an inmate sentenced to a county penal institution such

1 notice shall be made pursuant to subsection g. of this section. Each
2 inmate shall be given the opportunity to acknowledge in writing the
3 receipt of such computation. Failure or refusal by the inmate to
4 acknowledge the receipt of such computation shall be recorded by the
5 board but shall not constitute a violation of this subsection.

6 j. Except as provided in this subsection, each inmate sentenced
7 pursuant to N.J.S.2A:113-4 for a term of life imprisonment,
8 N.J.S.2A:164-17 for a fixed minimum and maximum term or
9 N.J.S.2C:1-1(b) shall not be primarily eligible for parole on a date
10 computed pursuant to this section, but shall be primarily eligible on a
11 date computed pursuant to P.L.1948, c.84 (C.30:4-123.1 et seq.),
12 which is continued in effect for this purpose. Inmates classified as
13 second, third or fourth offenders pursuant to section 12 of P.L.1948,
14 c.84 (C.30:4-123.12) shall become primarily eligible for parole after
15 serving one-third, one-half or two-thirds of the maximum sentence
16 imposed, respectively, less in each instance commutation time for good
17 behavior and credits for diligent application to work and other
18 institutional assignments; provided, however, that if the prosecuting
19 attorney or the sentencing court advises the board that the punitive
20 aspects of the sentence imposed on such inmates will not have been
21 fulfilled by the time of parole eligibility calculated pursuant to this
22 subsection, then the inmate shall not become primarily eligible for
23 parole until serving an additional period which shall be one-half of the
24 difference between the primary parole eligibility date calculated
25 pursuant to this subsection and the parole eligibility date calculated
26 pursuant to section 12 of P.L.1948, c.84 (C.30:4-123.12). If the
27 prosecuting attorney or the sentencing court advises the board that the
28 punitive aspects of the sentence have not been fulfilled, such advice
29 need not be supported by reasons and will be deemed conclusive and
30 final. Any such decision shall not be subject to judicial review except
31 to the extent mandated by the New Jersey and United States
32 Constitutions. The board shall, reasonably prior to considering any
33 such case, advise the prosecuting attorney and the sentencing court of
34 all information relevant to such inmate's parole eligibility.

35 k. ¹Notwithstanding any provisions of this section or N.J.S.2C:47-
36 5 to the contrary, a person sentenced to imprisonment pursuant to
37 paragraph (2) or (3) of subsection b. of N.J.S.2C:11-3 shall not be
38 eligible for parole.

39 l. ¹ Notwithstanding the provisions of subsections a. ¹[thorough]
40 through¹ j. of this section, the appropriate board panel, as provided in
41 section 1 of P.L. , c. (C.)(now pending before the Legislature
42 as this bill), may release an inmate serving a sentence of imprisonment
43 on medical parole at anytime.

44 (cf: P.L.1997, c.60, s.3)

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46 3. This act shall take effect immediately.

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3 Permits medical parole for certain terminally ill or severely
4 incapacitated inmates.