

§3
C. 30:4-123.54a
§4
C. 2C:44-6.1
&
Note To 17B:26-1

P.L. 1997, CHAPTER 216, *approved August 19, 1997*
Assembly Committee Substitute (*Second Reprint*) for
Assembly, Nos. 489 and 685

1 AN ACT concerning preparole and presentence reports and amending
2 and supplementing² P.L.1979, c.441 and N.J.S.2C:44-6.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

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 commitment¹ [or other], any¹ disposition which arose out of any
17 charges 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,¹ [include a
22 complete psychiatric evaluation of the inmate,]¹ include an
23 investigation by the Bureau of Parole of the inmate's parole plans, and
24 present information bearing upon the likelihood that the inmate will
25 commit a crime under the laws of this State if released on parole.
26 ¹The report shall also include a complete² [psychiatric]psychological²
27 evaluation of the inmate in any case in which the inmate was convicted

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.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly AAP committee amendments adopted June 20, 1996.

² Senate SJU committee amendments adopted June 5, 1997.

1 of a first or second degree crime involving violence and:

2 (1) the inmate has a prior acquittal by reason of insanity pursuant
3 to N.J.S.2C:4-1 or had charges suspended pursuant to N.J.S.2C:4-6;
4 or

5 (2) the inmate has a prior conviction for murder pursuant to
6 N.J.S.2C:11-3, aggravated sexual assault or sexual assault pursuant to
7 N.J.S.2C:14-2, kidnapping pursuant to N.J.S.2C:13-1, endangering the
8 welfare of a child which would constitute a crime of the second degree
9 pursuant to N.J.S.2C:24-4, ²[and]or² stalking which would constitute
10 a crime of the third degree pursuant to ²[N.J.S.2C:24-4] P.L.1992,
11 c.209 (C.2C:12-10) ²; or

12 (3) the inmate has a prior diagnosis of psychosis.

13 The inmate shall disclose any information concerning any history
14 of civil commitment.¹

15 (2) At the time of sentencing, the prosecutor shall notify any
16 victim injured as a result of a crime of the first or second degree or the
17 nearest relative of a murder victim of the opportunity to present a
18 statement for the parole report to be considered at the parole hearing
19 or to testify to the parole board concerning his harm at the time of the
20 parole hearing. Each victim or relative shall be responsible for
21 notifying the board of his intention to submit such a statement and to
22 provide an appropriate mailing address.

23 The report may include a statement concerning the continuing
24 nature and extent of any physical harm or psychological or emotional
25 harm or trauma suffered by the victim, the extent of any loss of
26 earnings or ability to work suffered by the victim and the continuing
27 effect of the crime upon the victim's family. At the time public notice
28 is given that an inmate is being considered for parole pursuant to this
29 section, the board shall also notify any victim or nearest relative who
30 has previously contacted the board of the availability to provide a
31 statement for inclusion in the parole report or to present testimony at
32 the parole hearing.

33 The board shall notify such person at his last known mailing
34 address.

35 c. A copy of the report filed pursuant to subsection a. of this
36 section, excepting those documents which have been classified as
37 confidential pursuant to rules and regulations of the board or the
38 Department of Corrections, shall be served on the inmate at the time
39 it is filed with the board panel. The inmate may file with the board
40 panel a written statement regarding the report, but shall do so within
41 105 days prior to the primary parole eligibility date.

42 d. Upon receipt of the public notice pursuant to section 1 of
43 P.L.1979, c.441 (C.30:4-123.45), a county prosecutor may request
44 from the parole board a copy of the report on any adult inmate
45 prepared pursuant to subsection a. of this section, which shall be

1 expeditiously forwarded to the county prosecutor by the parole board
2 by mail, courier, or other means of delivery. Upon receipt of the
3 report, the prosecutor has 10 working days to review the report and
4 notify the parole board of the prosecutor's comments, if any, or notify
5 the parole board of the prosecutor's intent to provide comments. If
6 the county prosecutor does not provide comments or notify the parole
7 board of the prosecutor's intent to provide comments within the 10
8 working days, the parole board may presume that the prosecutor does
9 not wish to provide comments and may proceed with the parole
10 consideration. Any comments provided by a county prosecutor shall
11 be delivered to the parole board by the same method by which the
12 county prosecutor received the report. The confidentiality of the
13 contents in a report which are classified as confidential shall be
14 maintained and shall not be disclosed to any person who is not
15 authorized to receive or review a copy of the report containing the
16 confidential information.

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

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

22

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

24 2C:44-6. Procedure on Sentence; Presentence Investigation
25 and Report.

26 a. The court shall not impose sentence without first ordering a
27 presentence investigation of the defendant and according due
28 consideration to a written report of such investigation when required
29 by the Rules of Court. The court may order a presentence
30 investigation in any other case.

31 b. The presentence investigation shall include an analysis of the
32 circumstances attending the commission of the offense, the defendant's
33 history of delinquency or criminality, family situation, financial
34 resources, including whether or not the defendant is an enrollee or
35 covered person under a health insurance contract, policy or plan,
36 debts, including any amount owed for a fine, assessment or restitution
37 ordered in accordance with the provisions of Title 2C, employment
38 history, personal habits, the disposition of any charge made against any
39 codefendants [and may include a report on his physical and mental
40 condition], the defendant's history of civil commitment ¹[or other],
41 any¹ disposition ¹[if any,]¹ which arose out of charges suspended
42 pursuant to N.J.S.2C:4-6 including the records of the disposition of
43 those charges and any acquittal by reason of insanity pursuant to
44 N.J.S.2C:4-1, and any other matters that the probation officer deems
45 relevant or the court directs to be included. ¹The defendant shall

1 disclose any information concerning any history of civil commitment.¹
2 The report shall also include a medical history of the defendant and a
3 complete²[psychiatric] psychological² evaluation of the defendant¹ in
4 any case in which the defendant is being sentenced for a first or second
5 degree crime involving violence and:

6 (1) the defendant has a prior acquittal by reason of insanity
7 pursuant to N.J.S.2C:4-1 or had charges suspended pursuant to
8 N.J.S.2C:4-6; or

9 (2) the defendant has a prior conviction for murder pursuant to
10 N.J.S.2C:11-3, aggravated sexual assault or sexual assault pursuant to
11 N.J.S.2C:14-2, kidnapping pursuant to N.J.S.2C:13-1, endangering the
12 welfare of a child which would constitute a crime of the second degree
13 pursuant to N.J.S.2C:24-4, ²[and]or² stalking which would constitute
14 a crime of the third degree pursuant to²[N.J.S.2C:24-4]P.L.1992,
15 c.209 (C.2C:12-10)²; or

16 (3) the defendant has a prior diagnosis of psychosis.

17 The court, in its discretion and considering all the appropriate
18 circumstances, may waive the medical history and²[psychiatric]
19 psychological² examination in any case in which a term of
20 imprisonment² [includes] including² a period of parole ineligibility is
21 imposed.¹ In any case involving a conviction of N.J.S.2C:24-4,
22 endangering the welfare of a child; N.J.S.2C:18-3, criminal trespass,
23 where the trespass was committed in a school building or on school
24 property; section 1 of P.L.1993, c.291 (C.2C:13-6), attempting to lure
25 or entice a child with purpose to commit a criminal offense;²[section
26 1 of P.L.1992, c.209 (C.2C:12-10), stalking;] section 1 of P.L.1992,
27 c.209 (C.2C:12-10), stalking²; or N.J.S.2C:13-1, kidnapping, where
28 the victim of the offense is a child under the age of 18, the
29 investigation shall include a report on the defendant's mental condition
30 [unless the court directs otherwise] ²[In any case involving a
31 conviction of stalking, the investigation shall include a report on the
32 defendant's mental condition.]²

33 The presentence report shall also include a report on any
34 compensation paid by the Victims of Crime Compensation Board as a
35 result of the commission of the offense and, in any case where the
36 victim chooses to provide one, a statement by the victim of the offense
37 for which the defendant is being sentenced. The statement may
38 include the nature and extent of any physical harm or psychological or
39 emotional harm or trauma suffered by the victim, the extent of any loss
40 to include loss of earnings or ability to work suffered by the victim and
41 the effect of the crime upon the victim's family. The probation
42 department shall notify the victim or nearest relative of a homicide
43 victim of his right to make a statement for inclusion in the presentence
44 report if the victim or relative so desires. Any such statement shall be
45 made within 20 days of notification by the probation department.

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

8 c. If, after the presentence investigation, the court desires
9 additional information concerning an offender convicted of an offense
10 before imposing sentence, it may order [that he be examined as to his
11 medical or mental condition, except that he may not be committed to
12 an institution for such examination] any additional
13 ²[psychiatric]psychological² or medical testing of the defendant.

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

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

32 f. (Deleted by amendment, P.L.1986, c.85).
33 (cf: P.L.1996, c.39, s.2)

34
35 ¹3. (New section) a. An inmate who is required to submit to a
36 ²[psychiatric]psychological² evaluation pursuant to the provisions of
37 Section 10 of P.L.1979, c.441 (C.30:4-123.54) shall be liable for the
38 cost of such evaluation. If the inmate is an enrollee or a covered
39 person under a health insurance contract, policy or plan, the State shall
40 file a claim with the health insurance contract, policy or plan for a
41 reimbursement of the costs of the ²[psychiatric] psychological²
42 evaluation. The claim shall be filed in accordance with the rules and
43 regulations promulgated pursuant to subsection b. of this section. The
44 reimbursement authorized under this section shall be payable to the
45 State Treasurer and shall be used exclusively for the purpose of

1 defraying the costs incurred by the State for the
2 ²[psychiatric]psychological² evaluation.

3 b. The Commissioner of the Department of ²Banking and²
4 Insurance, in accordance with the provisions of the "Administrative
5 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall
6 promulgate rules and regulations to effectuate the purposes of this
7 section.

8 c. In the event that an inmate is not covered under a health
9 insurance contract, policy or plan, or if the inmate's insurance
10 contract, policy or plan does not fully cover the costs of the
11 ²[psychiatric]psychological² evaluation, the State may file a lien for
12 any unpaid amounts due and payable on any and all property and
13 income to which the inmate shall have or may acquire an interest.¹

14 ²Any lien filed shall be in accordance with the rules and regulations
15 promulgated pursuant to subsection b. of this section.²

16
17 ¹4. (New section) a. A defendant who is required to submit to
18 a ²[psychiatric] psychological² evaluation pursuant to the provisions
19 of N.J.S.2C:44-6 shall be liable for the cost of such evaluation. If the
20 defendant is an enrollee or a covered person under a health insurance
21 contract, policy or plan, the Administrative Office of the Courts shall
22 file a claim with the health insurance contract, policy or plan for a
23 reimbursement of the costs of the ²[psychiatric]psychological²
24 evaluation. The claim shall be filed in accordance with the rules and
25 regulations promulgated pursuant to subsection b. of this section. The
26 reimbursement authorized under this section shall be payable to the
27 Administrative Office of the Courts and shall be used exclusively for
28 the purpose of defraying the costs incurred for the
29 ²[psychiatric]psychological² evaluation.

30 b. The Commissioner of the Department of ²Banking and²
31 Insurance, in accordance with the provisions of the "Administrative
32 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall
33 promulgate rules and regulations to effectuate the purposes of this
34 section.

35 c. In the event that a defendant is not covered under a health
36 insurance contract, policy or plan, or if the defendant's insurance
37 contract, policy or plan does not fully cover the costs of the
38 ²[psychiatric]psychological² evaluation, a lien may be filed for any
39 unpaid amounts due and payable on any and all property and income
40 to which the ²[inmate] defendant² shall have or may acquire an
41 interest.¹ ²Any lien filed shall be in accordance with the rules and
42 regulations promulgated pursuant to subsection b. of this section.²

43
44 ¹[3.] ⁵.¹ This act shall take effect immediately.

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2

3 Requires preparole and presentence reports to include disposition of
4 prior charges suspended due to mental incompetency; requires
5 defendants and inmates to undergo psychological examinations under
6 certain circumstances; permits the State to obtain reimbursement from
7 defendants, inmates and health insurers.