

SENATE, No. 369

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Senator MATHEUSSEN

1 AN ACT concerning parole and amending P.L.1979, c.441.

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

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6 1. Section 10 of P.L.1979, c.441 (C.30:4-123.54) is amended to  
7 read as follows:

8 10. a. At least 120 days but not more than 180 days prior to the  
9 parole eligibility date of each adult inmate, a report concerning the  
10 inmate shall be filed with the appropriate board panel, by the staff  
11 members designated by the superintendent or other chief executive  
12 officer of the institution in which the inmate is held.

13 b. (1) The report filed pursuant to subsection a. shall contain  
14 preincarceration records of the inmate, state the conduct of the inmate  
15 during the current period of confinement, include a complete report on  
16 the inmate's social, physical and mental condition, include an  
17 investigation by the Bureau of Parole of the inmate's parole plans, and  
18 present information bearing upon the likelihood that the inmate will  
19 commit a crime under the laws of this State if released on parole.

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

28 The report may include a statement concerning the continuing  
29 nature and extent of any physical harm or psychological or emotional  
30 harm or trauma suffered by the victim, the extent of any loss of  
31 earnings or ability to work suffered by the victim and the continuing  
32 effect of the crime upon the victim's family. At the time public notice

**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 is given that an inmate is being considered for parole pursuant to this  
2 section, the board shall also notify any victim or nearest relative who  
3 has previously contacted the board of the availability to provide a  
4 statement for inclusion in the parole report or to present testimony at  
5 the parole hearing.

6 The board shall notify such person at his last known mailing  
7 address.

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

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

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

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

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41 2. Section 11 of P.L.1979, c.441 (C.30:4-123.55) is amended to  
42 read as follows:

43 11. a. Prior to the parole eligibility date of each adult inmate, a  
44 designated hearing officer shall review the reports required by section  
45 10 of this act, and shall determine whether there is a basis for denial  
46 of parole in the preparole report or the inmate's statement, or an

1 indication, reduced to writing, that additional information providing a  
2 basis for denial of parole would be developed or produced at a  
3 hearing. If the hearing officer determines that there is no basis in the  
4 preparole report or the inmate's statement for denial of parole and that  
5 there is no additional relevant information to be developed or  
6 produced at a hearing, he shall at least 60 days prior to the inmate's  
7 parole eligibility date recommend in writing to the assigned member of  
8 the board panel that parole release be granted.

9 b. If the assigned member of the board panel or in the case of an  
10 inmate sentenced to a county penal institution, the assigned member  
11 concurs in the hearing officer's recommendation, he shall certify parole  
12 release pursuant to section 15 of this act as soon as practicable after  
13 the eligibility date and so notify the inmate and the board. In the case  
14 of an inmate sentenced to a county penal institution the board shall  
15 certify parole release or deny parole as provided by this section, except  
16 with regard to time periods for notice and parole processing which are  
17 authorized by or otherwise adopted pursuant to subsection g. of  
18 section 7 of P.L.1979, c.441 (C.30:4-123.51). If the designated  
19 hearing officer does not recommend release on parole or if the  
20 assigned member does not concur in a recommendation of the  
21 designated hearing officer in favor of release, then the parole release  
22 of an inmate in a county penal institution shall be treated under the  
23 provisions of law otherwise applicable to an adult inmate. In the case  
24 of an inmate sentenced to a county penal institution, the performance  
25 of public service for the remainder of the term of the sentence shall be  
26 a required condition of parole, where appropriate.

27 c. If the hearing officer or the assigned member determines that  
28 there is a basis for denial of parole, or that a hearing is otherwise  
29 necessary, the hearing officer or assigned member shall notify the  
30 appropriate board panel and the inmate in writing of his determination,  
31 and of a date for a parole consideration hearing. The board panel shall  
32 notify the victim of the crime[, if the crime for which the inmate is  
33 incarcerated was a crime of the first or second degree,]or the victim's  
34 nearest relative if the crime was murder, as appropriate, who was  
35 previously contacted by the board and who has indicated his intention  
36 to the board to testify at the hearing, of the opportunity to testify or  
37 submit written statements at the hearing. Said hearing shall be  
38 conducted by the appropriate board panel at least 30 days prior to the  
39 eligibility date. At the hearing, which shall be informal, the board  
40 panel shall receive as evidence any relevant and reliable documents or  
41 in person testimony, including that of the victim of the crime or the  
42 members of the family of a murder victim if the victim or a family  
43 member so desires. If a victim of a crime or the relative of a murder  
44 victim chooses not to testify personally at the hearing, the victim or  
45 relative may elect to present testimony to a senior hearing officer  
46 designated by the board panel. The senior hearing officer shall prepare

1 a report or a transcript of the testimony for presentation to the board  
2 panel at the hearing. All such evidence not classified as confidential  
3 pursuant to rules and regulations of the board or the Department of  
4 Corrections shall be disclosed to the inmate and the inmate shall be  
5 permitted to rebut such evidence and to present evidence on his own  
6 behalf. The decision of the board panel shall be based solely on the  
7 evidence presented at the hearing.

8 d. At the conclusion of the parole consideration hearing, the board  
9 panel shall either (1) certify the parole release of the inmate pursuant  
10 to section 15 of this act as soon as practicable after the eligibility date  
11 and so notify the inmate and the board, or (2) deny parole and file with  
12 the board within 30 days of the hearing a statement setting forth the  
13 decision, the particular reasons therefor, except information classified  
14 as confidential pursuant to rules and regulations of the board or the  
15 Department of Corrections, a copy of which statement shall be served  
16 upon the inmate together with notice of his right to appeal to the  
17 board.

18 e. Upon request by the hearing officer or the inmate, the time  
19 limitations contained in sections 10 and 11 may be waived by the  
20 appropriate board panel for good cause.

21 f. Notwithstanding the provision of any other law to the contrary,  
22 if an inmate incarcerated for murder is recommended for parole by the  
23 assigned board member or the appropriate board panel, parole shall  
24 not be certified until a majority of the full parole board, after  
25 conducting a hearing, concurs in that recommendation. The board shall  
26 notify the victim's family of that hearing and family members shall be  
27 afforded the opportunity to testify in person or to submit written  
28 statements. The provisions of this subsection shall not apply to an  
29 inmate who has his parole revoked and is returned to custody pursuant  
30 to the provisions of section 19 of P.L.1979, c.441 (C.30:4-123.63).  
31 (cf: P.L.1993, c.222, s.1)

32  
33 3. (New section) a. Within 60 days of the effective date of this  
34 act, the State Parole Board in conjunction with the Department of  
35 Corrections shall conduct a survey of the inmate population in all  
36 correctional facilities in the State to identify those inmates convicted  
37 of crimes for which the victim of the crime or the nearest relative of  
38 a murder victim was not notified of the opportunity to present a  
39 statement for the parole report to be considered at the parole hearing  
40 or to testify to the parole board at the time of the parole hearing.

41 b. Within 120 days of the effective date of this act, the State Parole  
42 Board in conjunction with the county prosecutors shall attempt to  
43 contact the victims or the nearest relative of a murder victim of the  
44 inmates identified pursuant to subsection a. of this section.

45 c. Each victim or the nearest relative contacted shall be responsible  
46 for notifying the board of his intention to submit a statement or testify

1 and to provide an appropriate mailing address. The contents of the  
2 report and the subsequent notification of the victim or the nearest  
3 relative shall be as set forth in section 10 of P.L.1979, c.441  
4 (C.30:4-123.54).

5 d. For any inmate who is eligible for release on parole within 120  
6 days of the effective date of this act, the board shall complete the  
7 notification process set forth in this section prior to release of the  
8 inmate on parole.

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10 4. This act shall take effect immediately.

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13 STATEMENT  
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15 This bill would amend N.J.S.A.30:4-123.45 et. seq., the parole law,  
16 to make notification procedures applicable to a victim of any crime.  
17 Presently the law applies to victims of crimes of the first and second  
18 degree.

19 This bill would also require the State Parole Board to survey the  
20 current inmate population to identify all those inmates for whom the  
21 victim was not notified of the opportunity to present a statement for  
22 the parole report to be considered at the parole hearing or to testify to  
23 the parole board at the time of the parole hearing. The parole board  
24 in conjunction with the county prosecutors would also be required to  
25 contact the victim or the nearest relative of a victim to notify them of  
26 this opportunity. Under the provisions of the bill, the victim would  
27 then be responsible for notifying the board of his intention to submit  
28 a statement or testify and to provide an appropriate mailing address.

29 The bill would also require the board to complete the notification  
30 process prior to release of any inmate on parole.

31 The effect of this bill would be to ensure that all victims would be  
32 provided notice by the prosecutor at the time of sentencing under the  
33 current provisions of N.J.S.A.30:4-123.54. The bill also reaches back  
34 to attempt to provide notification to all victims before any inmate is  
35 released on parole.

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40 Expands notification to victims of any crime of opportunity to make  
41 a statement or testify before the parole board; requires parole board to  
42 establish notification process for all inmates.