

SENATE, No. 1048

STATE OF NEW JERSEY

INTRODUCED MAY 2, 1996

By Senator CASEY

1 AN ACT concerning parole eligibility and information available upon  
2 reconsideration and amending P.L.1979, c.441.

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

9 11. a. Prior to the parole eligibility date of each adult inmate, a  
10 designated hearing officer shall review the reports required by section  
11 10 of this act, and shall determine whether there is a basis for denial  
12 of parole in the preparole report or the inmate's statement based on the  
13 criteria set forth in section 9 of P.L.1979, c.441 (C.30:4-123.53), or  
14 an indication, reduced to writing, that additional information providing  
15 a basis for denial of parole would be developed or produced at a  
16 hearing. If the hearing officer determines that there is no basis in the  
17 preparole report or the inmate's statement for denial of parole and that  
18 there is no additional relevant information to be developed or  
19 produced at a hearing, he shall at least 60 days prior to the inmate's  
20 parole eligibility date recommend in writing to the assigned member of  
21 the board panel that parole release be granted.

22 b. If the assigned member of the board panel or in the case of an  
23 inmate sentenced to a county penal institution, the assigned member  
24 concurs in the hearing officer's recommendation, he shall certify parole  
25 release pursuant to section 15 of this act as soon as practicable after  
26 the eligibility date and so notify the inmate and the board. In the case  
27 of an inmate sentenced to a county penal institution the board shall  
28 certify parole release or deny parole as provided by this section, except  
29 with regard to time periods for notice and parole processing which are  
30 authorized by or otherwise adopted pursuant to subsection g. of  
31 section 7 of P.L.1979, c.441(C.30:4-123.51).

32 If the designated hearing officer does not recommend release on  
33 parole based on the criteria set forth in section 9 of P.L.1979, c.441  
34 (C.30:4-123.53) or if the assigned member does not concur in a

**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 recommendation of the designated hearing officer in favor of release,  
2 then the parole release of an inmate in a county penal institution shall  
3 be treated under the provisions of law otherwise applicable to an adult  
4 inmate. In the case of an inmate sentenced to a county penal  
5 institution, the performance of public service for the remainder of the  
6 term of the sentence shall be a required condition of parole, where  
7 appropriate.

8 c. If the hearing officer or the assigned member determines that  
9 there is a basis for denial of parole, or that a hearing is otherwise  
10 necessary, the hearing officer or assigned member shall notify the  
11 appropriate board panel and the inmate in writing of his determination,  
12 and of a date for a parole consideration hearing. The board panel shall  
13 notify the victim of the crime, if the crime for which the inmate is  
14 incarcerated was a crime of the first or second degree, or the victim's  
15 nearest relative if the crime was murder, as appropriate, who was  
16 previously contacted by the board and who has indicated his intention  
17 to the board to testify at the hearing, of the opportunity to testify or  
18 submit written statements at the hearing. Said hearing shall be  
19 conducted by the appropriate board panel at least 30 days prior to the  
20 eligibility date. At the hearing, which shall be informal, the board  
21 panel shall receive as evidence any relevant and reliable documents or  
22 in person testimony, including that of the victim of the crime or the  
23 members of the family of a murder victim if the victim or a family  
24 member so desires. If a victim of a crime or the relative of a murder  
25 victim chooses not to testify personally at the hearing, the victim or  
26 relative may elect to present testimony to a senior hearing officer  
27 designated by the board panel. The senior hearing officer shall prepare  
28 a report or a transcript of the testimony for presentation to the board  
29 panel at the hearing. All such evidence not classified as confidential  
30 pursuant to rules and regulations of the board or the Department of  
31 Corrections shall be disclosed to the inmate and the inmate shall be  
32 permitted to rebut such evidence and to present evidence on his own  
33 behalf. The decision of the board panel shall be based solely on the  
34 evidence presented at the hearing.

35 d. At the conclusion of the parole consideration hearing, the board  
36 panel shall either (1) certify the parole release of the inmate pursuant  
37 to section 15 of this act as soon as practicable after the eligibility date  
38 and so notify the inmate and the board, or (2) deny parole and file with  
39 the board within 30 days of the hearing a statement setting forth the  
40 decision, the particular reasons therefor, except information classified  
41 as confidential pursuant to rules and regulations of the board or the  
42 Department of Corrections, a copy of which statement shall be served  
43 upon the inmate together with notice of his right to appeal to the  
44 board.

45 e. Upon request by the hearing officer or the inmate, the time  
46 limitations contained in sections 10 and 11 may be waived by the

1 appropriate board panel for good cause.

2 f. Notwithstanding the provision of any other law to the contrary,  
3 if an inmate incarcerated for murder is recommended for parole by the  
4 assigned board member or the appropriate board panel, parole shall  
5 not be certified until a majority of the full parole board, after  
6 conducting a hearing, concurs in that recommendation. The board  
7 shall notify the victim's family of the hearing and family members shall  
8 be afforded the opportunity to testify in person or to submit written  
9 statements.

10 The provisions of this subsection shall not apply to an inmate who  
11 has his parole revoked and is returned to custody pursuant to the  
12 provisions of section 19 of P.L.1979, c.441 (C.30:4-123.63).  
13 (cf: P.L.1993, c.222, s.1)

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15 2. Section 12 of P.L.1979, c.441 (C.30:4-123.56) is amended to  
16 read as follows:

17 12. a. The board shall develop a schedule of future parole eligibility  
18 dates for adult inmates denied release at their eligibility date. In  
19 developing such schedule, particular emphasis shall be placed on the  
20 severity of the offense for which he was denied parole and on the  
21 characteristics of the offender, such as, but not limited to, the prior  
22 criminal record of the inmate and the need for continued incapacitation  
23 of the inmate.

24 b. If the release on the eligibility date is denied, the board panel  
25 which conducted the hearing shall refer to the schedule published  
26 pursuant to subsection a. of this section, and include in its statement  
27 denying parole notice of the date of future parole consideration. If  
28 such date differs from the date otherwise established by the schedule,  
29 the board panel shall include particular reasons therefor. Such future  
30 parole eligibility date shall take into account usual remissions of  
31 sentence for good behavior and diligent application to work and other  
32 assignments. Such future parole eligibility date may also be altered  
33 pursuant to section 8 of [this act] of P.L.1979, c.441 (C.30:4-123.52).

34 c. An inmate shall be released on parole on the new parole  
35 eligibility date unless [new] information filed pursuant to a procedure  
36 identical to that set forth in section 10 of P.L.1979, c.441  
37 (C.30:4-123.54) indicates by a preponderance of the evidence that  
38 there is a substantial likelihood that the inmate will commit a crime  
39 under the laws of this State if released on parole at such time. The  
40 [determination of whether there is such an indication in the new  
41 preparole report or whether there is additional relevant information to  
42 be developed or produced at a hearing, and the] determination of  
43 whether the inmate shall be released on the new parole eligibility date

1 shall be made pursuant to the procedure set forth in [sections] section  
2 11 of P.L.1979, c.441 (C.30:4-123.55) and [12] this section.  
3 (cf: P.L.1979, c.441, s.12)

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5 3. This act shall take effect immediately and shall apply to persons  
6 whose parole eligibility date arises on or after the effective date of this  
7 act.

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10 STATEMENT

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12 This bill would give the parole board more discretion in reviewing  
13 the case of an inmate who has been previously denied parole.  
14 Currently, the parole board is required to allow the inmate to be  
15 released on parole unless new information obtained in a new preparole  
16 report indicates that the inmate should not be released. Under the  
17 provisions of this bill, the parole board would not be required to base  
18 its decision on any new information in the report, but rather it could  
19 base its determination on the existing information in the preparole  
20 report. This bill clarifies what the basis for denial of parole initially is  
21 by adding language to Section 11 of P.L. 1979, c.441.

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26 Eliminates requirement that new information be developed for  
27 reconsideration of parole; clarifies basis for denial of parole initially.