

SENATE, No. 1418

STATE OF NEW JERSEY

INTRODUCED JULY 25, 1996

By Senator MATHEUSSEN

1 AN ACT concerning the Adult Diagnostic and Treatment Center,
2 supplementing chapter 47 of Title 2C of the New Jersey Statutes
3 and amending P.L.1979, c.441.

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

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8 1. (New section) a. Within four years after the effective date of
9 this act, the inmate population of the Adult Diagnostic and Treatment
10 Center shall be permanently reduced to a number not to exceed 60
11 percent of the total inmate population there on the effective date of
12 this act. In each of the first four years following enactment of this act,
13 the commissioner shall reduce the population by a minimum of 10
14 percent of the inmate population of the facility on the effective date of
15 this act. The reduction may be achieved through parole, release at the
16 expiration of a sentence, or transfer to other correctional facilities.

17 b. The commissioner may promulgate rules and regulations
18 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
19 (C.52:14B-1 et seq.) to effectuate the purposes of this act.

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21 2. (New section) Notwithstanding the provisions of
22 N.J.S.2C:47-4, a person sentenced to the Adult Diagnostic and
23 Treatment Center shall be transferred to another correctional facility,
24 if that person (a) is 60 years of age or older; (b) is serving a life
25 sentence with no possibility of parole; or (c) as certified by a member
26 of the facility's treatment staff, is not motivated in therapy, cannot
27 benefit from therapy or refuses to participate in psychological
28 treatment while serving a sentence there.

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30 3. (New section) A person transferred from the Adult Diagnostic
31 and Treatment Center to another correctional facility pursuant to
32 P.L. , c. (C.)(now pending before the Legislature as this bill)
33 shall be eligible for parole in accordance with the provisions of
34 N.J.S.2C:47-5; provided, however, commutation time for good

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 behavior pursuant to N.J.S.2A:164-24 or R.S.30:4-140 and credits for
2 diligent application to work and other institutional assignments
3 pursuant to P.L.1972, c.115 (C.30:8-28.1 et seq.) or R.S.30:4-92,
4 shall not be applicable to him.

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

8 7. Eligibility for parole; computation; notice to inmate;
9 acknowledgement of receipt

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

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

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

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

10 e. Each adult inmate sentenced to the Adult Diagnostic and
11 Treatment Center, Avenel, or transferred therefrom to another
12 correctional facility pursuant to P.L. , c. , (C.)(now pending
13 before the Legislature as this bill) or any other provision of law, shall
14 become primarily eligible for parole upon recommendation by the
15 special classification review board pursuant to N.J.S.2C:47-5, except
16 that no such inmate shall become primarily eligible prior to the
17 expiration of any mandatory or fixed minimum term imposed pursuant
18 to N.J.S.2C:14-6.

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

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

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

45 i. The primary eligibility date shall be computed by a designated
46 representative of the board and made known to the inmate in writing

1 not later than 90 days following the commencement of the sentence.
2 In the case of an inmate sentenced to a county penal institution such
3 notice shall be made pursuant to subsection g. of this section. Each
4 inmate shall be given the opportunity to acknowledge in writing the
5 receipt of such computation. Failure or refusal by the inmate to
6 acknowledge the receipt of such computation shall be recorded by the
7 board but shall not constitute a violation of this subsection.

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

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

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39 5. This act shall take effect immediately.

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STATEMENT

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44 This bill originates from the findings of the Joint Legislative Task
45 Force to Study the Adult Diagnostic and Treatment Center at Avenel
46 (ADTC). This bill requires the Commissioner of Corrections to

1 decrease the number of inmates held at the ADTC over the next four
2 years. The facility would hold 40% fewer inmates than it does
3 currently, which would reduce overcrowding as well as treatment staff
4 caseloads.

5 This bill also requires the Commissioner of Corrections to transfer
6 to another correctional facility any inmate of the ADTC who refuses
7 to participate in psychological treatment, commonly known as a
8 "therapy refuser;" who is serving a life sentence with no possibility of
9 parole; who is not motivated in or cannot benefit from therapy, as
10 certified by an ADTC therapist; or who is 60 years of age or older.
11 The ADTC is a specialized correctional facility for sex offenders
12 whose crimes, according to examining psychologists, indicate a pattern
13 of repetitive, compulsive behavior. A specialized treatment program
14 is available for these offenders at the center. If a sex offender refuses
15 to participate in the treatment program, there is no reason for him to
16 remain in the center. The bill's provision for the transfer of such
17 recalcitrant inmates to another correctional facility assures that the
18 ADTC's limited bed space is reserved for inmates who are motivated
19 to participate in its treatment program.

20 The bill further requires that an inmate who is transferred from the
21 ADTC remain subject to the special parole provisions which apply to
22 persons sentenced to the ADTC. Prior to consideration for parole, an
23 ADTC inmate must be adjudged as capable of making an "acceptable
24 social adjustment in the community" by a special classification review
25 board. The inmate then must be approved by the Parole Board as not
26 substantially likely to commit a crime if released.

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31 Requires reduction of inmate population and transfer of inmates
32 refusing treatment at ADTC.