

SENATE, No. 1703

STATE OF NEW JERSEY

INTRODUCED NOVEMBER 25, 1996

By Senator INVERSO

1 AN ACT concerning certain prison inmates, amending P.L.1979, c.441  
2 and supplementing Title 30 of the Revised Statutes.

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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. (New section) Notwithstanding the provisions of section 7 of  
8 P.L.1979, c.441 (C.30:4-123.51), R.S.30:4-140, R.S.30:4-92 or any  
9 other law to the contrary, progressive time credits or credits for  
10 diligent application to work shall be forfeited as a penalty for  
11 misconduct if an inmate violates or attempts to violate:

12 a. Any restraining order imposed upon him, including but not  
13 limited to any restraining order imposed pursuant to the "Prevention  
14 of Domestic Violence Act of 1991," P.L.1991, c.261 (C.2C:25-17 et  
15 seq.) or P.L.1981, c.426 (C.2C:25-1 et al.); or

16 b. The provisions of N.J.S.2C:12-3, terroristic threats; 2C:33-4,  
17 harassment; or P.L.1992, c.209 (C.2C:12-10), stalking, committed  
18 against a person who was a victim of, or a witness to, the offense for  
19 which the inmate is incarcerated.

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

23 7. a. **[Each] Except as provided in subsection k. of this section,**  
24 **each** adult inmate sentenced to a term of incarceration in a county  
25 penal institution, or to a specific term of years at the State Prison or  
26 the correctional institution for women shall become primarily eligible  
27 for parole after having served any judicial or statutory mandatory  
28 minimum term, or one-third of the sentence imposed where no  
29 mandatory minimum term has been imposed less commutation time for  
30 good behavior pursuant to N.J.S.2A:164-24 or R.S.30:4-140 and  
31 credits for diligent application to work and other institutional  
32 assignments pursuant to P.L.1972, c.115 (C.30:8-28.1 et seq.) or  
33 R.S.30:4-92. Consistent with the provisions of the New Jersey Code  
34 of Criminal Justice (N.J.S.2C:11-3, 2C:14-6, 2C:43-6, 2C:43-7),

**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.**

1 commutation and work credits shall not in any way reduce any judicial  
2 or statutory mandatory minimum term and such credits accrued shall  
3 only be awarded subsequent to the expiration of the term.

4 b. [Each] Except as provided in subsection k. of this section, each  
5 adult inmate sentenced to a term of life imprisonment shall become  
6 primarily eligible for parole after having served any judicial or  
7 statutory mandatory minimum term, or 25 years where no mandatory  
8 minimum term has been imposed less commutation time for good  
9 behavior and credits for diligent application to work and other  
10 institutional assignments. If an inmate sentenced to a specific term or  
11 terms of years is eligible for parole on a date later than the date upon  
12 which he would be eligible if a life sentence had been imposed, then in  
13 such case the inmate shall be eligible for parole after having served 25  
14 years, less commutation time for good behavior and credits for diligent  
15 application to work and other institutional assignments. Consistent  
16 with the provisions of the New Jersey Code of Criminal Justice  
17 (N.J.S.2C:11-3, 2C:14-6, 2C:43-6, 2C:43-7), commutation and work  
18 credits shall not in any way reduce any judicial or statutory mandatory  
19 minimum term and such credits accrued shall only be awarded  
20 subsequent to the expiration of the term.

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

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

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

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

44 g. Each adult inmate of a county jail, workhouse or penitentiary  
45 shall become primarily eligible for parole upon service of 60 days of  
46 his aggregate sentence or as provided for in subsection a. of this

1 section, whichever is greater. Whenever any such inmate's parole  
2 eligibility is within six months of the date of such sentence, the judge  
3 shall state such eligibility on the record which shall satisfy all public  
4 and inmate notice requirements. The chief executive officer of the  
5 institution in which county inmates are held shall generate all reports  
6 pursuant to subsection d. of section 10 of P.L.1979, c.441  
7 (C.30:4-123.54). The parole board shall have the authority to  
8 promulgate time periods applicable to the parole processing of inmates  
9 of county penal institutions, except that no inmate may be released  
10 prior to the primary eligibility date established by this subsection,  
11 unless consented to by the sentencing judge. No inmate sentenced to  
12 a specific term of years at the State Prison or the correctional  
13 institution for women shall become primarily eligible for parole until  
14 service of a full nine months of his aggregate sentence.

15 h. When an inmate is sentenced to more than one term of  
16 imprisonment, the primary parole eligibility terms calculated pursuant  
17 to this section shall be aggregated by the board for the purpose of  
18 determining the primary parole eligibility date, except that no juvenile  
19 commitment shall be aggregated with any adult sentence. The board  
20 shall promulgate rules and regulations to govern aggregation under  
21 this subsection.

22 i. The primary eligibility date shall be computed by a designated  
23 representative of the board and made known to the inmate in writing  
24 not later than 90 days following the commencement of the sentence.  
25 In the case of an inmate sentenced to a county penal institution such  
26 notice shall be made pursuant to subsection g. of this section. Each  
27 inmate shall be given the opportunity to acknowledge in writing the  
28 receipt of such computation. Failure or refusal by the inmate to  
29 acknowledge the receipt of such computation shall be recorded by the  
30 board but shall not constitute a violation of this subsection.

31 j. Except as provided in this subsection, each inmate sentenced  
32 pursuant to N.J.S.2A:113-4 for a term of life imprisonment,  
33 N.J.S.2A:164-17 for a fixed minimum and maximum term or  
34 N.J.S.2C:1-1(b) shall not be primarily eligible for parole on a date  
35 computed pursuant to this section, but shall be primarily eligible on a  
36 date computed pursuant to P.L.1948, c.84 (C.30:4-123.1 et seq.),  
37 which is continued in effect for this purpose. Inmates classified as  
38 second, third or fourth offenders pursuant to section 12 of P.L.1948,  
39 c.84 (C.30:4-123.12) shall become primarily eligible for parole after  
40 serving one-third, one-half or two-thirds of the maximum sentence  
41 imposed, respectively, less in each instance commutation time for good  
42 behavior and credits for diligent application to work and other  
43 institutional assignments; provided, however, that if the prosecuting  
44 attorney or the sentencing court advises the board that the punitive  
45 aspects of the sentence imposed on such inmates will not have been  
46 fulfilled by the time of parole eligibility calculated pursuant to this

1 subsection, then the inmate shall not become primarily eligible for  
2 parole until serving an additional period which shall be one-half of the  
3 difference between the primary parole eligibility date calculated  
4 pursuant to this subsection and the parole eligibility date calculated  
5 pursuant to section 12 of P.L.1948, c.84 (C.30:4-123.12). If the  
6 prosecuting attorney or the sentencing court advises the board that the  
7 punitive aspects of the sentence have not been fulfilled, such advice  
8 need not be supported by reasons and will be deemed conclusive and  
9 final. Any such decision shall not be subject to judicial review except  
10 to the extent mandated by the New Jersey and United States  
11 Constitutions. The board shall, reasonably prior to considering any  
12 such case, advise the prosecuting attorney and the sentencing court of  
13 all information relevant to such inmate's parole eligibility.

14 k. An inmate shall not be eligible for parole if, at any time during  
15 his incarceration, he violates or attempts to violate:

16 a. Any restraining order imposed upon him, including but not  
17 limited to any restraining order imposed pursuant to the "Prevention  
18 of Domestic Violence Act of 1991," P.L.1991, c.261 (C.2C:25-17 et  
19 seq.) or P.L.1981, c.426 (C.2C:25-1 et al.); or

20 b. The provisions of N.J.S.2C:12-3, terroristic threats; 2C:33-4,  
21 harassment; or P.L.1992, c.209 (C.2C:12-10), stalking, committed  
22 against a person who was a victim of, or a witness to, the offense for  
23 which the inmate is incarcerated.

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

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26 3. Section 16 of P.L.1979, c.441 (C.30:4-123.60) is amended to  
27 read as follows:

28 16. a. Any parolee who violates a condition of parole may be  
29 subject to an order pursuant to section 17 of P.L.1979, c.441  
30 (C.30:4-123.61) providing for one or more of the following: (1) That  
31 he be required to conform to one or more additional conditions of  
32 parole; (2) That he forfeit all or a part of commutation time credits  
33 granted pursuant to R.S.30:4-140.

34 b. Any parolee who has seriously or persistently violated the  
35 conditions of his parole, may have his parole revoked and may be  
36 returned to custody pursuant to sections 18 and 19 of P.L.1979, c.441  
37 (C.30:4-123.62 and 30:4-123.63). The board shall be notified  
38 immediately upon the arrest or indictment of a parolee or upon the  
39 filing of charges that the parolee committed an act which, if committed  
40 by an adult, would constitute a crime. The board shall not revoke  
41 parole on the basis of new charges which have not resulted in a  
42 disposition at the trial level except that upon application by the  
43 prosecuting authority, the Juvenile Justice Commission established  
44 pursuant to section 2 of P.L.1995, c.284 (C.52:17B-170) or the Chief  
45 of the Bureau of Parole, the chairman of the board or his designee may  
46 at any time detain the parolee and commence revocation proceedings

1 pursuant to sections 18 and 19 of P.L.1979, c.441 (C.30:4-123.62 and  
2 30:4-123.63) when the chairman determines that the new charges  
3 against the parolee are of a serious nature and it appears that the  
4 parolee otherwise poses a danger to the public safety. In such cases,  
5 a parolee shall be informed that, if he testifies at the revocation  
6 proceedings, his testimony and the evidence derived therefrom shall  
7 not be used against him in a subsequent criminal prosecution or  
8 delinquency adjudication.

9 c. [Any] (1) Except as provided in paragraph 2 of this subsection,  
10 any parolee who is convicted of a crime or adjudicated delinquent for  
11 an act which, if committed by an adult, would constitute a crime,  
12 committed while on parole shall have his parole revoked and shall be  
13 returned to custody unless the parolee demonstrates, by clear and  
14 convincing evidence at a hearing pursuant to section 19 of P.L.1979,  
15 c.441 (C.30:4-123.63), that good cause exists why he should not be  
16 returned to confinement.

17 (2) Any parolee who, while on parole:

18 (a) Commits a violation of any restraining order imposed upon him,  
19 including but not limited to any restraining order imposed pursuant to  
20 the "Prevention of Domestic Violence Act of 1991," P.L.1991, c.261  
21 (C.2C:25-17 et seq.) or P.L.1981, c.426 (C.2C:25-1 et al.); or

22 (b) Is convicted of a crime or the offense of harassment committed  
23 against a victim of, or a witness to, the offense for which the inmate  
24 was incarcerated, shall have his parole revoked and shall be returned  
25 to custody.

26 (cf: P.L.1995, c.280, s.40)

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28 4. This act shall take effect immediately.  
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### 31 STATEMENT

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33 This bill would eliminate parole eligibility and "good time" credits  
34 for inmates who violate restraining orders, harass or threaten their  
35 victims from prison. Under the bill, an inmate who violates any  
36 restraining order imposed upon him under the domestic violence  
37 statutes or under any other provision of law, or who commits  
38 terroristic threats, harassment or stalking against a victim of, or  
39 witness to, the original offense for which he is incarcerated, would  
40 forfeit progressive time credits and eligibility for parole.

41 The bill also provides that an inmate who is released on parole and  
42 commits any of these acts or any other crime against the victim or  
43 witness to the original offense would automatically have his parole  
44 revoked and be returned to prison. Under current law, a parolee who  
45 is convicted of a crime committed while on parole can avoid parole  
46 revocation if he can demonstrate at a hearing, by clear and convincing

1 evidence, "that good cause exists why he should not be returned to  
2 confinement." Under this bill, a parolee who violates a restraining  
3 order, harasses or commits any other crime against a victim or witness  
4 will not have this opportunity but will automatically be returned to  
5 prison.

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10 Eliminates parole eligibility and "good time" credits for inmates who  
11 harass or threaten their victims from prison.