

SENATE, No. 2000

STATE OF NEW JERSEY

INTRODUCED APRIL 17, 1997

By Senators CIESLA and MATHEUSSEN

1 AN ACT concerning the standard for parole release and amending  
2 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 9 of P.L.1979, c.441 (C.30:4-123.53) is amended to read  
8 as follows:

9 9. a. An adult inmate shall be released on parole at the time of  
10 parole eligibility, unless information supplied in the report filed  
11 pursuant to section 10 of [this act] P.L.1979, c.441 (C. 30:4-123.54)  
12 or developed or produced at a hearing held pursuant to section 11 of  
13 [this act] P.L.1979, c.441 (C.30:4-123.55) indicates by a  
14 preponderance of the evidence that [there is a substantial likelihood]  
15 the inmate has failed to cooperate in his or her own rehabilitation or  
16 that there is a reasonable expectation that the inmate will [commit a  
17 crime under the laws of this State] violate conditions of parole imposed  
18 pursuant to section 15 of P.L.1979, c.441 (C.30:4-123.59) if released  
19 on parole at [such] that time. In reaching such determination, the  
20 board panel or board shall state on the record the reasons therefor.

21 b. A juvenile inmate shall be released on parole when it shall  
22 appear that the juvenile, if released, will not cause injury to persons or  
23 substantial injury to property.

24 (cf: P.L.1979, c.441, s.9)

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

28 12. a. The board shall develop a schedule of future parole  
29 eligibility dates for adult inmates denied release at their eligibility date.  
30 In developing such schedule, particular emphasis shall be placed on the  
31 severity of the offense for which he was denied parole and on the  
32 characteristics of the offender, such as, but not limited to, the prior  
33 criminal record of the inmate and the need for continued incapacitation  
34 of the inmate.

**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       b. If the release on the eligibility date is denied, the board panel  
2 which conducted the hearing shall refer to the schedule published  
3 pursuant to subsection a., and include in its statement denying parole  
4 notice of the date of future parole consideration. If such date differs  
5 from the date otherwise established by the schedule, the board panel  
6 shall include particular reasons therefor. [Such] The future parole  
7 eligibility date shall not be altered to take into account [usual]  
8 remissions of sentence for good behavior and diligent application to  
9 work and other assignments[. Such]; provided however, the future  
10 parole eligibility date may [also] be altered pursuant to section 8 of  
11 [this act] P.L.1979, c. 441 (C.30:4-123.52).

12       c. An inmate shall be released on parole on the new parole  
13 eligibility date unless [new] information filed pursuant to a procedure  
14 identical to that set forth in section 10 of P.L.1979, c.441 (C.30:4-  
15 123.54) indicates by a preponderance of the evidence that [there is a  
16 substantial likelihood] the inmate has failed to cooperate in his or her  
17 own rehabilitation or that there is a reasonable expectation that the  
18 inmate will [commit a crime under the laws of this State] violate  
19 conditions of parole imposed pursuant to section 15 of P.L.1979, c.441  
20 (C.30:4-123.59) if released on parole at [such] that time. The  
21 determination of whether [there is such an indication in the new  
22 preparole report or whether there is additional relevant information to  
23 be developed or produced at a hearing, and the determination of  
24 whether] the inmate shall be released on the new parole eligibility date  
25 shall be made pursuant to the procedure set forth in [sections]section  
26 11 of P.L.1979, c.441(C.30:4-123.55) and [12]this section.  
27 (cf: P.L.1979, c.441, s.12)

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

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#### STATEMENT

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35       This bill amends the provisions of the "Parole Act of 1979"  
36 (P.L.1979, c.441; C.30:4-123.45 et seq.) to change the standard by  
37 which the parole board determines whether an inmate should be  
38 paroled, allow the parole board to weigh all relevant information in an  
39 inmate's record when considering that inmate's parole eligibility at  
40 second and subsequent hearings and eliminate good time and work  
41 credits for inmates denied parole. The bill also prohibits the parole of  
42 an inmate who has not cooperated in his or her own rehabilitation  
43 while in prison and prohibits parole in those cases where there is a  
44 reasonable expectation that the inmate would violate one of the  
45 statutorily mandated conditions of parole. (Those conditions include:  
46 compliance with all laws; a prohibition on the possession of a firearm

1 and the use, possession or distribution of drugs; strict supervision by  
2 a parole officer; and any other specific conditions the parole board may  
3 impose to reduce the likelihood of future criminal behavior by the  
4 parolee.)

5 Currently, under section 9 of P.L.1979, c.441 (C.30:4-123.53), the  
6 parole board may refuse to grant parole to an inmate only if  
7 information provided in a preparole report to the board or developed  
8 at a parole hearing indicates by a preponderance of the evidence that  
9 a substantial likelihood exists the inmate will commit another crime.  
10 This bill would grant more discretion to the board in these matters.

11 Similarly, under section 12 of P.L.1979, c.441 (C.30:4-123.56), the  
12 parole board currently is required to release any inmate who has been  
13 previously denied parole unless new information obtained in a new  
14 preparole report or produced at the hearing indicates by a  
15 preponderance of the evidence that there is a substantial likelihood the  
16 inmate will commit a crime upon release. Under the bill's provisions,  
17 at the second and subsequent parole hearings, the parole board would  
18 not be required to base its decision strictly on information developed  
19 since the previous denial of parole, but could consider information  
20 provided at earlier parole hearings. The Governor's Study Commission  
21 on Parole described the provision permitting the parole board to  
22 consider only new information in a subsequent parole decision as "one  
23 of the most significant and inappropriate limitations that existing law  
24 places on the board's discretion."

25 Finally, the bill eliminates the use of good time and work credits to  
26 accelerate an inmate's future eligibility date after the inmate was denied  
27 parole. The Study Commission on Parole found that the period of  
28 incarceration after parole denial offers the inmate an opportunity to  
29 address unresolved issues, including mental health and substance abuse  
30 problems. The commission stated that accelerating the eligibility date  
31 in such cases "only reinforces the public perception that inmates  
32 actually serve less time than required by the original sentence ... or the  
33 parole board."

34 The bill establishes the same ground for denial at both the initial  
35 review and at the second (or any subsequent) review.

36 The provisions of this bill are based upon the recommendations of  
37 the Governor's Study Commission on Parole.

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43 Allows board to consider all relevant information at subsequent parole  
44 hearings, changes parole standard, eliminates certain credits to inmates  
denied parole.