

[First Reprint]
SENATE, No. 2204

STATE OF NEW JERSEY

INTRODUCED JUNE 12, 1997

By Senator KOSCO

1 AN ACT concerning the parole decision making process and amending
2 P.L.1979, c. 441.

3

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

6

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

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

14 b. (1) The report filed pursuant to subsection a. shall contain
15 preincarceration records of the inmate, ¹[including any psychological
16 reports prepared in connection with any court proceedings.]¹ state the
17 conduct of the inmate during the current period of confinement,
18 include a complete report on the inmate's social, physical and mental
19 condition, ¹[including any preparole psychological evaluations.]¹
20 include an investigation by the Bureau of Parole of the inmate's parole
21 plans, and present information bearing upon the likelihood that the
22 inmate will commit a crime under the laws of this State if released on
23 parole. ¹[In addition, the report shall include an objective risk
24 assessment. The risk assessment, which shall be in a form prescribed
25 by the board pursuant to rule and regulation, shall consist of both
26 static and dynamic factors which may assist the board panel in
27 determining whether the inmate shall be certified for parole and, if
28 paroled, the level of supervision the parolee may require. In addition
29 to the information otherwise gathered for and incorporated in the pre-
30 parole report, the assessment shall include evaluations of the inmate's
31 ability to function independently, the inmate's educational and

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.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate SLP committee amendments adopted June 16, 1997.

1 employment background, the inmate's family and marital history, and
2 such other information and factors as the board may deem appropriate
3 and necessary.] The preincarceration records of the inmate contained
4 in the report shall include any psychological reports prepared in
5 connection with any court proceedings.¹

6 (2) At the time of sentencing, the prosecutor shall notify any victim
7 injured as a result of a crime of the first or second degree or the
8 nearest relative of a murder victim of the opportunity to present a
9 statement for the parole report to be considered at the parole hearing
10 or to testify to the parole board concerning his harm at the time of the
11 parole hearing. Each victim or relative shall be responsible for
12 notifying the board of his intention to submit such a statement and to
13 provide an appropriate mailing address.

14 The report may include a statement concerning the continuing
15 nature and extent of any physical harm or psychological or emotional
16 harm or trauma suffered by the victim, the extent of any loss of
17 earnings or ability to work suffered by the victim and the continuing
18 effect of the crime upon the victim's family. At the time public notice
19 is given that an inmate is being considered for parole pursuant to this
20 section, the board shall also notify any victim or nearest relative who
21 has previously contacted the board of the availability to provide a
22 statement for inclusion in the parole report or to present testimony at
23 the parole hearing.

24 The board shall notify such person at his last known mailing
25 address.

26 c. A copy of the report filed pursuant to subsection a. of this
27 section, excepting those documents which have been classified as
28 confidential pursuant to rules and regulations of the board or the
29 Department of Corrections, shall be served on the inmate at the time
30 it is filed with the board panel. The inmate may file with the board
31 panel a written statement regarding the report, but shall do so within
32 105 days prior to the primary parole eligibility date.

33 d. Upon receipt of the public notice pursuant to section 1 of
34 P.L.1979, c.441 (C.30:4-123.45), a county prosecutor may request
35 from the parole board a copy of the report on any adult inmate
36 prepared pursuant to subsection a. of this section, which shall be
37 expeditiously forwarded to the county prosecutor by the parole board
38 by mail, courier, or other means of delivery. Upon receipt of the
39 report, the prosecutor has 10 working days to review the report and
40 notify the parole board of the prosecutor's comments, if any, or notify
41 the parole board of the prosecutor's intent to provide comments. If
42 the county prosecutor does not provide comments or notify the parole
43 board of the prosecutor's intent to provide comments within the 10
44 working days, the parole board may presume that the prosecutor does
45 not wish to provide comments and may proceed with the parole
46 consideration. Any comments provided by a county prosecutor shall

1 be delivered to the parole board by the same method by which the
2 county prosecutor received the report. The confidentiality of the
3 contents in a report which are classified as confidential shall be
4 maintained and shall not be disclosed to any person who is not
5 authorized to receive or review a copy of the report containing the
6 confidential information.

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

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

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13 2. Section 8 of P.L.1979, c.441 (C.30:4-123.52) is amended to
14 read as follows:

15 8. a. If the appropriate board panel determines that an adult inmate
16 has seriously or persistently violated specifically defined institutional
17 rules or has engaged in conduct indictable in nature while incarcerated,
18 the inmate's parole eligibility date may be increased pursuant to a
19 schedule developed by the board. In developing such schedule,
20 particular emphasis shall be placed on the severity of the inmate's
21 conduct. The board shall deduct from the scheduled penalty any loss
22 of commutation time imposed by the Department of Corrections
23 pursuant to R.S.30:4-140.

24 b. If the appropriate board panel determines that an adult inmate
25 has made exceptional progress, as evidenced by documented
26 participation and progress in institutional or community educational,
27 training or other programs, the inmate's parole eligibility date may be
28 decreased, except that no parole eligibility date shall be set below the
29 primary parole eligibility date without the consent of the sentencing
30 court, which need not conduct a hearing and in no case shall a parole
31 eligibility date be set below any judicial or statutory mandatory
32 minimum term, including any parole eligibility date set pursuant to
33 section 23 of this act.

34 c. The appropriate board panel shall annually monitor the progress
35 of each adult inmate and provide the inmate with a written statement
36 of any changes in his parole eligibility.

37 d. At any time while an inmate is committed to the custody of the
38 Commissioner of Corrections, the appropriate board panel or the
39 Parole Board may require, as often as it deems necessary, that inmate
40 to undergo an in-depth preparole psychological evaluation conducted
41 by a psychologist employed by the Parole Board or, where appropriate
42 after consultation with the Department of Corrections, by a
43 psychologist at the Adult Diagnostic and Treatment Center, to provide
44 current and accurate information to assess the inmate's suitability for
45 parole.

46 ¹e. Prior to the parole eligibility date of each adult inmate, an

1 objective risk assessment shall be performed by board staff. The risk
2 assessment, which shall be in a form prescribed by the board pursuant
3 to rule and regulation, shall consist of both static and dynamic factors
4 which may assist the board panel in determining whether the inmate
5 shall be certified for parole and, if paroled, the level of supervision the
6 parolee may require. In addition to the information otherwise
7 gathered for and incorporated in the pre-parole report, the assessment
8 shall include evaluations of the inmate's ability to function
9 independently, the inmate's educational and employment background,
10 the inmate's family and marital history, and such other information and
11 factors as the board may deem appropriate and necessary.¹

12 (cf: P.L.1979, c.441, s.8)

13

14 3. Section 11 of PL.1979, c.441 (C.30:4-123.55) is amended to
15 read as follows:

16 11. a. Prior to the parole eligibility date of each adult inmate, a
17 designated hearing officer shall review the reports required by section
18 10 of [this act] P.L.1979, c.441 (C.30:4-123.54), and shall determine
19 whether there is a basis for denial of parole in the preparole report ,
20 any risk-assessment prepared in accordance with the provisions of
21 subsection ¹[b. of section 10 of P.L.1979, c.441 (C.30:3-123.54)] e.
22 of section 8 of P.L.1979, c.441 (C.30:4-123.52)¹, or the inmate's
23 statement, or an indication, reduced to writing, that additional
24 information providing a basis for denial of parole would be developed
25 or produced at a hearing. If the hearing officer determines that there
26 is no basis in the preparole report, the risk-assessment, or the inmate's
27 statement for denial of parole and that there is no additional relevant
28 information to be developed or produced at a hearing, he shall at least
29 60 days prior to the inmate's parole eligibility date recommend in
30 writing to the assigned member of the board panel that parole release
31 be granted.

32 b. If the assigned member of the board panel or in the case of an
33 inmate sentenced to a county penal institution, the assigned member
34 concurs in the hearing officer's recommendation, he shall certify parole
35 release pursuant to section 15 of [this act] P.L.1979, c.441 (C.30:4-
36 123.59) as soon as practicable after the eligibility date and so notify
37 the inmate and the board. In the case of an inmate sentenced to a
38 county penal institution the board shall certify parole release or deny
39 parole as provided by this section, except with regard to time periods
40 for notice and parole processing which are authorized by or otherwise
41 adopted pursuant to subsection g. of section 7 of P.L.1979, c.441
42 (C.30:4-123.51). If the designated hearing officer does not
43 recommend release on parole or if the assigned member does not
44 concur in a recommendation of the designated hearing officer in favor
45 of release, then the parole release of an inmate in a county penal
46 institution shall be treated under the provisions of law otherwise

1 applicable to an adult inmate. In the case of an inmate sentenced to a
2 county penal institution, the performance of public service for the
3 remainder of the term of the sentence shall be a required condition of
4 parole, where appropriate.

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

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

42 e. Upon request by the hearing officer or the inmate, the time
43 limitations contained in [sections]section 10 of P.L.1979, c.441
44 (C.30:4-123.54) and [11] this section may be waived by the
45 appropriate board panel for good cause.

46 f. Notwithstanding the provision of any other law to the contrary,

1 if an inmate incarcerated for murder is recommended for parole by the
2 assigned board member or the appropriate board panel, parole shall
3 not be certified until a majority of the full parole board, after
4 conducting a hearing, concurs in that recommendation. The board
5 shall notify the victim's family of that hearing and family members shall
6 be afforded the opportunity to testify in person or to submit written
7 statements. The provisions of this subsection shall not apply to an
8 inmate who has his parole revoked and is returned to custody pursuant
9 to the provisions of section 19 of P.L.1979, c.441 (C.30:4-123.63).
10 (cf: P.L.1993, c.222, s.1)

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12 4. This act shall take effect immediately; except that
13 notwithstanding the provisions of subsection ¹[b. of section 10 of
14 P.L.1979, c.441 (C.30:4-123.54)] e. of section 8 of P.L.1979, c.441
15 (C.30:3-123.52)¹, no objective risk assessment shall be ¹[included in
16 any report]¹ required ¹[under the provisions of subsection a. of section
17 10 of P.L.1979, c.441 (C.30:4-123.54)]¹ until the first day of the sixth
18 month following enactment.

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23 Authorizes preparation of inmate risk-assessment and psychological
24 evaluations for Parole Board use.