

LEGISLATIVE FISCAL NOTE: Yes

S2255

SPONSORS STATEMENT: (Begins on page 10 of original bill) Yes

COMMITTEE STATEMENT: **ASSEMBLY:** No

SENATE: Yes 6-25-01 (Judiciary)

6-25-01 (Budget)

Identical to Senate Statements for A3092

FLOOR AMENDMENT STATEMENTS: No

LEGISLATIVE FISCAL NOTE: Yes

Identical to fiscal note for A3092

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: Yes

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ASSEMBLY, No. 3092

STATE OF NEW JERSEY 209th LEGISLATURE

INTRODUCED JANUARY 9, 2001

Sponsored by:

Assemblyman JAMES W. HOLZAPFEL

District 10 (Monmouth and Ocean)

Assemblyman TOM SMITH

District 11 (Monmouth)

SYNOPSIS

Increases membership of parole board; provides for appointment of temporary members and accelerates processing of certain inmates' cases.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning the parole board and amending P.L.1979, c.441.

2

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

5

6 1. Section 3 of P.L.1979, c.441 (C.30:4-123.47) is amended to
7 read as follows:

8 3. a. There is hereby created and established within the
9 Department of Corrections a State Parole Board which shall consist of
10 a chairman, ~~[10]~~ 14 associate members and one alternate board
11 member. The chairman, associate members and alternate board
12 member shall be appointed by the Governor with the advice and
13 consent of the Senate from qualified persons with training or
14 experience in law, sociology, criminal justice, juvenile justice or
15 related branches of the social sciences. Members of the board and the
16 alternate board member shall be appointed for terms of six years and
17 the terms of their successors shall be calculated from the expiration of
18 the incumbent's term. Members shall serve until their successors are
19 appointed and have qualified.

20 The Governor shall designate a vice-chairman from among the
21 associate members. The vice-chairman shall assume the duties of the
22 chairman when the chairman is absent , unavailable or otherwise
23 ~~[incapable of performing]~~ unable to perform his duties, or, in the case
24 of removal or a permanent incapacity, until the qualification of a
25 successor chairman appointed by the Governor.

26 The alternate board member may assume the duties of an associate
27 member when the associate member is absent , unavailable or
28 otherwise unable to perform his duties , or the associate member
29 assumes the duties of the chairman, and shall perform those duties only
30 until the associate resumes his duties, or, in the case of removal or a
31 permanent incapacity, the qualification of a successor appointed by the
32 Governor.

33 b. (1) Any vacancy occurring in the membership of the board,
34 otherwise than by expiration of term, shall be filled in the same manner
35 as one occurring by expiration of term, but for the unexpired term
36 only. In the event that any member of the board ~~[shall be rendered~~
37 ~~incapable of performing]~~ is absent, unavailable or otherwise unable to
38 perform his duties and the alternate board member is incapable of
39 performing that associate's duties, either because the alternate board
40 member has assumed the duties of another associate or is absent,
41 unavailable or otherwise ~~[rendered incapable of performing]~~ unable
42 to perform the associate's duties, the Governor shall appoint 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 qualified person to act in ~~his~~ the alternate board member's stead
2 during the period of ~~his~~ the alternate's incapacity. Any member of
3 the board, including the alternate board member, may be removed
4 from office by the Governor for cause.

5 (2) Upon certification of the chairman that additional parole panels
6 are needed on a temporary basis for the efficient processing of parole
7 decisions, the Governor also may appoint not more than four
8 temporary acting parole board members from qualified persons with
9 training or experience in law, sociology, criminal justice, juvenile
10 justice or related branches of the social sciences. A temporary acting
11 member shall be appointed for a term of three months. The Governor
12 may extend the appointment of any or all of the temporary acting
13 members for additional terms of three months, upon certification of the
14 chairman that additional parole panels are needed on a temporary basis
15 for the efficient processing of parole decisions. A temporary acting
16 member shall be authorized to participate in administrative review of
17 initial parole hearing decisions, parole consideration hearings and
18 determinations concerning revocation or rescission of parole.

19 c. The members of the board shall devote their full time to the
20 performance of their duties and be compensated pursuant to section 2
21 of P.L.1974, c.55 (C.52:14-15.108). The alternate member and any
22 temporary acting members shall be entitled to compensation. The
23 amount of such compensation shall be determined by multiplying the
24 rate an associate member would be paid on a per diem basis times the
25 number of days the alternate board member or temporary acting
26 member actually performed the duties of an associate member in
27 accordance with the provisions of this section.

28 d. At the time of appointment, the Governor shall designate two
29 associate members of the board to serve on a panel on juvenile
30 commitments. The remaining ~~eight~~ 12 associate members of the
31 board shall be appointed by the Governor to panels on adult sentences
32 ~~]. The]~~ and assigned by the chairman of the board ~~[shall assign six of~~
33 ~~the associate members so appointed]~~ to [three]six panels on ~~[prison]~~
34 adult sentences ~~[, and the remaining two associate members so~~
35 ~~appointed to a panel on young adult sentences]~~. The chairman of the
36 board shall be a member of each panel. Nothing provided herein shall
37 prohibit the chairman from reassigning any member appointed to a
38 panel on adult sentences to facilitate the efficient function of the
39 board. Nothing provided herein shall prohibit the chairman from
40 temporarily reassigning any member appointed to a panel on juvenile
41 commitments to a panel on adult sentences ~~[either as a member of a~~
42 ~~panel on prison sentences]~~ or a panel on young adult sentences to
43 facilitate the efficient function of the board. The alternate board
44 member may assume, in accordance with the provisions of this section,
45 the duties of any associate member, regardless of whether that

1 associate member serves on a panel on juvenile commitments or panels
2 on adult sentences [either as a member of a panel on prison sentences
3 or a panel on young adult sentences.] The chairman may assign a
4 temporary acting member to a panel on adult sentences or juvenile
5 commitments.

6 (cf: P.L.1999, c.139, s.1)

7

8 2. Section 4 of P.L.1979, c.441 (C.30:4-123.48) is amended to
9 read as follows:

10 4. a. All policies and determinations of the Parole Board shall be
11 made by the majority vote of the members.

12 b. Except where otherwise noted, parole determinations on
13 individual cases pursuant to this act shall be made by the majority vote
14 of a quorum of the appropriate board panel established pursuant to this
15 section.

16 c. The chairman of the board shall be the chief executive officer of
17 the board and, after consulting with the board, shall be responsible for
18 designating the time and place of all board meetings, for appointing the
19 board's employees, for organizing, controlling and directing the work
20 of the board and its employees, and for preparation and justification of
21 the board's budget. The nonsecretarial professional and supervisory
22 employees of the board such as, but not limited to, hearing officers,
23 shall serve at the pleasure of the chairman and shall not be subject to
24 the provisions of Title 11 of the Revised Statutes. Nothing contained
25 herein shall be deemed to affect the employees of the Department of
26 Corrections, such as parole officers assigned to supervise parolees.

27 d. The board shall promulgate such reasonable rules and
28 regulations, consistent with this act, as may be necessary for the
29 proper discharge of its responsibilities. The chairman shall file such
30 rules and regulations with the Secretary of State. The provisions of
31 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
32 seq.) shall apply to the promulgation of rules and regulations
33 concerning policy and administration, but not to other actions taken
34 under this act, such as parole hearings, parole revocation hearings and
35 review of parole cases. In determination of its rules and regulations
36 concerning policy and administration, the board shall consult the
37 Governor, the Commissioner of Corrections and the Juvenile Justice
38 Commission established pursuant to section 2 of P.L.1995, c.284
39 (C.52:17B-170).

40 e. The board, in conjunction with the Department of Corrections
41 and the Juvenile Justice Commission, shall develop a uniform
42 information system in order to closely monitor the parole process.
43 Such system shall include participation in the Uniform Parole Reports
44 of the National Council on Crime and Delinquency.

45 f. The board shall transmit a report of its work for the preceding
46 fiscal year, including information on the causes and extent of parole

1 recidivism, to the Governor, the Legislature and the Juvenile Justice
2 Commission annually. The report also may include relevant
3 information on compliance with established time frames in the
4 processing of parole eligibility determinations, the effectiveness of any
5 pertinent legislative or administrative measures, and any
6 recommendations to enhance board operations or to effectuate the
7 purposes of the "Parole Act of 1979," P.L.1979, c.441
8 (C.30:4-123.45 et seq.).

9 g. The board shall give public notice prior to considering any adult
10 inmate for release.

11 h. The board shall give notice to the appropriate prosecutor's office
12 and to the committing court prior to the initial consideration of any
13 juvenile inmate for release.

14 (cf: P.L.1995, c.280, s.35)

15
16 3. Section 10 of P.L.1979, c.441 (C.30:4-123.54) is amended to
17 read as follows:

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

23 b. (1) The report filed pursuant to subsection a. shall contain
24 preincarceration records of the inmate, including any history of civil
25 commitment, any disposition which arose out of any charges
26 suspended pursuant to N.J.S.2C:4-6 including records of the
27 disposition of those charges and any acquittals by reason of insanity
28 pursuant to N.J.S.2C:4-1, state the conduct of the inmate during the
29 current period of confinement, include a complete report on the
30 inmate's social and physical condition, include an investigation by the
31 Bureau of Parole of the inmate's parole plans, and present information
32 bearing upon the likelihood that the inmate will commit a crime under
33 the laws of this State if released on parole. The report shall also
34 include a complete psychological evaluation of the inmate in any case
35 in which the inmate was convicted of a first or second degree crime
36 involving violence and:

37 (a) the inmate has a prior acquittal by reason of insanity pursuant
38 to N.J.S.2C:4-1 or had charges suspended pursuant to N.J.S.2C:4-6;
39 or

40 (b) the inmate has a prior conviction for murder pursuant to
41 N.J.S.2C:11-3, aggravated sexual assault or sexual assault pursuant to
42 N.J.S.2C:14-2, kidnapping pursuant to N.J.S.2C:13-1, endangering the
43 welfare of a child which would constitute a crime of the second degree
44 pursuant to N.J.S.2C:24-4, or stalking which would constitute a crime
45 of the third degree pursuant to P.L.1992, c.209 (C.2C:12-10); or

46 (c) the inmate has a prior diagnosis of psychosis.

1 The inmate shall disclose any information concerning any history of
2 civil commitment.

3 The preincarceration records of the inmate contained in the report
4 shall include any psychological reports prepared in connection with
5 any court proceedings.

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 written or videotaped statement for the parole report to be considered
10 at the parole hearing or to testify to the parole board concerning his
11 harm at the time of the parole hearing. Each victim or relative shall be
12 responsible for notifying the board of his intention to submit such a
13 statement and to provide an appropriate mailing address.

14 The report may include a written or videotaped statement
15 concerning the continuing nature and extent of any physical harm or
16 psychological or emotional harm or trauma suffered by the victim, the
17 extent of any loss of earnings or ability to work suffered by the victim
18 and the continuing effect of the crime upon the victim's family. At the
19 time public notice is given that an inmate is being considered for
20 parole pursuant to this section, the board shall also notify any victim
21 or nearest relative who has previously contacted the board of the
22 availability to provide a written or videotaped statement for inclusion
23 in the parole report or to present testimony at 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 f. Notwithstanding any provision of this section, the board may
12 modify the time periods for submitting the reports required pursuant
13 to this section in processing an inmate whose parole eligibility date is
14 accelerated pursuant to section 4 of P.L.1979, c.441 (C.30:4-123.55).
15 (cf: P.L.1999, c.304, s.1)

16

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

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

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

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

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

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

46 e. Upon request by the hearing officer or the inmate, the time

1 limitations contained in section 10 of P.L.1979, c.441 (C.30:4-123.54)
2 and this section may be waived by the appropriate board panel for
3 good cause.

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

15 g. Notwithstanding the provision of any other law or regulation to
16 the contrary, the board may promulgate rules and regulations for the
17 processing of any inmate whose parole eligibility date is accelerated.
18 For purposes of this section, a parole eligibility date is accelerated
19 when an inmate becomes eligible for parole at the time of or within
20 120 days of an event or circumstance beyond the control of the parole
21 board, such as sentencing, resentencing or other amendment, including
22 the awarding of additional credit to the original sentence, restoration
23 of authorized institutional time credits or the application of authorized
24 institutional time credits on a future eligibility date established
25 pursuant to subsection a. of section 12 of P.L.1979, c.441 (C.30:4-
26 123.56) or subsection a. of section 20 of P.L.1979, c.441 (C.30:4-
27 123.64). The rules and regulations shall provide for the preparation
28 and review of a preparole report and shall require that a parole
29 consideration hearing be held not more than 120 days after the board
30 has received notice that an accelerated parole eligibility date has been
31 established.

32 (cf: P.L.1999, c.304, s.2)

33

34 5. This act shall take effect on the first day of the fourth month
35 after enactment.

36

37

38

STATEMENT

39

40 Unfilled vacancies on the Parole Board and a deluge of inmates
41 eligible for parole hearings have caused serious delays in the granting
42 of parole hearings. A class action civil rights lawsuit has been filed on
43 behalf of these inmates. A settlement proposed by the Attorney
44 General may result in the State paying fines which would be forwarded
45 to a prisoners' advocacy group on behalf of incarcerated inmates who
46 have not received timely parole hearings. The purpose of this bill is to

- 1 eliminate the backlog and prevent a reoccurrence in the future by
2 making various amendments to the "Parole Act of 1979," P.L.1979,
3 c.441 (C.30:4-123.45 et seq.). The bill:
- 4 C Increases the number of associate members of the parole board
5 from 10 to 14;
 - 6 C Provides that the vice-chairman will assume the duties of the
7 chairman when the chairman is unavailable or incapable of
8 performing his duties and that the alternate board member will
9 assume the duties of an associate member under the same
10 conditions or when the associate member assumes the duties of the
11 chairman;
 - 12 C Permits the Governor to appoint a qualified person to assume the
13 duties of any member when that member or an alternate member is
14 absent, unavailable, or otherwise unable to perform the member's
15 duties;
 - 16 C Permits the Governor, to appoint up to four temporary acting
17 parole board members for a term of three months. The chairman of
18 the parole board must first certify that additional panels are needed
19 temporarily to process parole decisions. Those so appointed must
20 be qualified persons with training or experience in law, sociology,
21 criminal justice, juvenile justice or related branches of the social
22 sciences. The Governor may extend a temporary member's term for
23 an additional three months if needed. Temporary acting members
24 are authorized to participate in administrative review of initial
25 parole hearing decisions, parole consideration hearings and
26 determinations concerning revocation or rescission of parole;
 - 27 C Increases the number of panels on adult sentences from three to six,
28 permits the chairman to assign a temporary acting member to a
29 panel, and eliminates a permanent panel on young adult sentences;
 - 30 C Provides that the board's annual report may include relevant
31 information on compliance with established time frames in
32 processing parole eligibility determinations, the effectiveness of any
33 pertinent legislative or administrative measures, and
34 recommendations to enhance board operations or to effectuate the
35 purposes of the "Parole Act of 1979;" and
 - 36 C Permits the board to promulgate rules and regulations for the
37 processing of any inmate whose parole eligibility date is
38 accelerated, as defined in the bill, and provides that the board may
39 modify the time periods for submitting the required reports in
40 processing such inmates.

ASSEMBLY LAW AND PUBLIC SAFETY COMMITTEE

STATEMENT TO

ASSEMBLY, No. 3092

with committee amendments

STATE OF NEW JERSEY

DATED: FEBRUARY 5, 2001

The Assembly Law and Public Safety Committee reports favorably and with committee amendments Assembly Bill No. 3092.

The purpose of Assembly Bill No. 3092 is to eliminate the recent backlog in parole eligibility hearings faced by the Parole Board and prevent a reoccurrence of this problem in the future by making various amendments to the "Parole Act of 1979," P.L.1979, c.441 (C.30:4-123.45 et seq.).

Several months ago, unfilled vacancies on the Parole Board and a deluge of inmates eligible for parole hearings caused serious delays in the granting of these parole hearings. A class action civil rights lawsuit was filed on behalf of inmates whose hearings were overdue. A settlement proposed by the Attorney General resulted in the State paying fines which were forwarded to a prisoners' advocacy group on behalf of incarcerated inmates who had not received timely parole hearings.

Specifically, the bill:

- C Increases the number of associate members of the parole board from 10 to 14;
- C Provides that the vice-chairman will assume the duties of the chairman when the chairman is unavailable or unable to perform his duties and that the alternate board member will assume the duties of an associate member under the same conditions or when the associate member assumes the duties of the chairman;
- C Permits the Governor to appoint a qualified person to assume the duties of any member when that member or an alternate member is absent, unavailable, or otherwise unable to perform the member's duties;
- C Permits the Governor to appoint up to four temporary acting parole board members for a term of three months. The chairman of the parole board must first certify that additional panels are needed temporarily to process parole decisions. Those so appointed must be qualified persons with training or experience in law, sociology, criminal justice, juvenile justice or related branches of the social sciences. The Governor may extend a temporary member's term for an additional three months if needed.

Temporary acting members are authorized to participate in administrative review of initial parole hearing decisions, parole consideration hearings and determinations concerning revocation or rescission of parole;

- C Increases the number of panels on adult sentences from three to six, permits the chairman to assign a temporary acting member to a panel, and eliminates a permanent panel on young adult sentences;
- C Provides that the board's annual report may include relevant information on compliance with established time frames in processing parole eligibility determinations, the effectiveness of any pertinent legislative or administrative measures, and recommendations to enhance board operations or to effectuate the purposes of the "Parole Act of 1979;" and
- C Permits the board to promulgate rules and regulations for the processing of any inmate whose parole eligibility date is accelerated, as defined in the bill, and provides that the board may modify the time periods for submitting the required reports in processing such inmates.

The committee amendment is technical in nature.

[First Reprint]

ASSEMBLY, No. 3092

STATE OF NEW JERSEY
209th LEGISLATURE

INTRODUCED JANUARY 9, 2001

Sponsored by:

Assemblyman JAMES W. HOLZAPFEL

District 10 (Monmouth and Ocean)

Assemblyman TOM SMITH

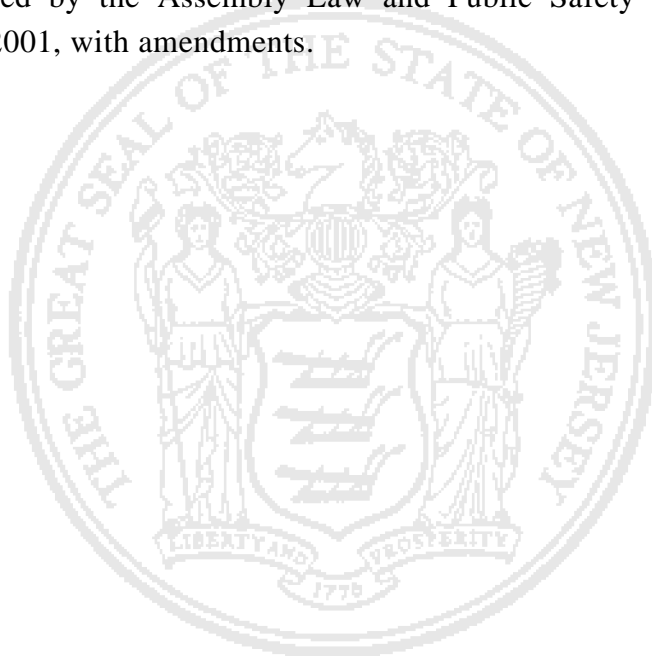
District 11 (Monmouth)

SYNOPSIS

Increases membership of parole board; provides for appointment of temporary members and accelerates processing of certain inmates' cases.

CURRENT VERSION OF TEXT

As reported by the Assembly Law and Public Safety Committee on February 5, 2001, with amendments.



1 AN ACT concerning the parole board and amending P.L.1979, c.441.

2

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

5

6 1. Section 3 of P.L.1979, c.441 (C.30:4-123.47) is amended to
7 read as follows:

8 3. a. There is hereby created and established within the
9 Department of Corrections a State Parole Board which shall consist of
10 a chairman, [10] 14 associate members and one alternate board
11 member. The chairman, associate members and alternate board
12 member shall be appointed by the Governor with the advice and
13 consent of the Senate from qualified persons with training or
14 experience in law, sociology, criminal justice, juvenile justice or
15 related branches of the social sciences. Members of the board and the
16 alternate board member shall be appointed for terms of six years and
17 the terms of their successors shall be calculated from the expiration of
18 the incumbent's term. Members shall serve until their successors are
19 appointed and have qualified.

20 The Governor shall designate a vice-chairman from among the
21 associate members. The vice-chairman shall assume the duties of the
22 chairman when the chairman is absent, unavailable or otherwise
23 **[incapable of performing]** unable to perform his duties, or, in the case
24 of removal or a permanent incapacity, until the qualification of a
25 successor chairman appointed by the Governor.

26 The alternate board member may assume the duties of an associate
27 member when the associate member is absent, unavailable or otherwise
28 unable to perform his duties, or the associate member assumes the
29 duties of the chairman, and shall perform those duties only until the
30 associate resumes his duties, or, in the case of removal or a permanent
31 incapacity, the qualification of a successor appointed by the Governor.

32 b. ⁽¹⁾ Any vacancy occurring in the membership of the board,
33 otherwise than by expiration of term, shall be filled in the same manner
34 as one occurring by expiration of term, but for the unexpired term
35 only. In the event that any member of the board **[shall be rendered**
36 **incapable of performing]** is absent, unavailable or otherwise unable to
37 perform his duties and the alternate board member is incapable of
38 performing that associate's duties, either because the alternate board
39 member has assumed the duties of another associate or is absent,
40 unavailable or otherwise [rendered incapable of performing] unable
41 to perform the associate's duties, the Governor shall appoint 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.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly ALP committee amendments adopted February 5, 2001.

1 qualified person to act in ~~his~~ the alternate board member's stead
2 during the period of ~~his~~ the alternate's incapacity. Any member of
3 the board, including the alternate board member, may be removed
4 from office by the Governor for cause.

5 (2) Upon certification of the chairman that additional parole panels
6 are needed on a temporary basis for the efficient processing of parole
7 decisions, the Governor also may appoint not more than four
8 temporary acting parole board members from qualified persons with
9 training or experience in law, sociology, criminal justice, juvenile
10 justice or related branches of the social sciences. A temporary acting
11 member shall be appointed for a term of three months. The Governor
12 may extend the appointment of any or all of the temporary acting
13 members for additional terms of three months, upon certification of the
14 chairman that additional parole panels are needed on a temporary basis
15 for the efficient processing of parole decisions. A temporary acting
16 member shall be authorized to participate in administrative review of
17 initial parole hearing decisions, parole consideration hearings and
18 determinations concerning revocation or rescission of parole.

19 c. The members of the board shall devote their full time to the
20 performance of their duties and be compensated pursuant to section 2
21 of P.L.1974, c.55 (C.52:14-15.108). The alternate member and any
22 temporary acting members shall be entitled to compensation. The
23 amount of such compensation shall be determined by multiplying the
24 rate an associate member would be paid on a per diem basis times the
25 number of days the alternate board member or temporary acting
26 member actually performed the duties of an associate member in
27 accordance with the provisions of this section.

28 d. At the time of appointment, the Governor shall designate two
29 associate members of the board to serve on a panel on juvenile
30 commitments. The remaining ~~eight~~ 12 associate members of the
31 board shall be appointed by the Governor to panels on adult sentences
32 ~~]. The]~~ and assigned by the chairman of the board ~~[shall assign six of~~
33 ~~the associate members so appointed]~~ to [three]six panels on ~~[prison]~~
34 adult sentences ~~], and the remaining two associate members so~~
35 ~~appointed to a panel on young adult sentences]~~. The chairman of the
36 board shall be a member of each panel. Nothing provided herein shall
37 prohibit the chairman from reassigning any member appointed to a
38 panel on adult sentences to facilitate the efficient function of the
39 board. Nothing provided herein shall prohibit the chairman from
40 temporarily reassigning any member appointed to a panel on juvenile
41 commitments to a panel on adult sentences ~~[either as a member of a~~
42 ~~panel on prison sentences]~~ or a panel on young adult sentences to
43 facilitate the efficient function of the board. The alternate board
44 member may assume, in accordance with the provisions of this section,
45 the duties of any associate member, regardless of whether that

1 associate member serves on a panel on juvenile commitments or panels
2 on adult sentences [either as a member of a panel on prison sentences
3 or a panel on young adult sentences.] The chairman may assign a
4 temporary acting member to a panel on adult sentences or juvenile
5 commitments.

6 (cf: P.L.1999, c.139, s.1)

7

8 2. Section 4 of P.L.1979, c.441 (C.30:4-123.48) is amended to
9 read as follows:

10 4. a. All policies and determinations of the Parole Board shall be
11 made by the majority vote of the members.

12 b. Except where otherwise noted, parole determinations on
13 individual cases pursuant to this act shall be made by the majority vote
14 of a quorum of the appropriate board panel established pursuant to this
15 section.

16 c. The chairman of the board shall be the chief executive officer of
17 the board and, after consulting with the board, shall be responsible for
18 designating the time and place of all board meetings, for appointing the
19 board's employees, for organizing, controlling and directing the work
20 of the board and its employees, and for preparation and justification of
21 the board's budget. The nonsecretarial professional and supervisory
22 employees of the board such as, but not limited to, hearing officers,
23 shall serve at the pleasure of the chairman and shall not be subject to
24 the provisions of Title 11 of the Revised Statutes. Nothing contained
25 herein shall be deemed to affect the employees of the Department of
26 Corrections, such as parole officers assigned to supervise parolees.

27 d. The board shall promulgate such reasonable rules and
28 regulations, consistent with this act, as may be necessary for the
29 proper discharge of its responsibilities. The chairman shall file such
30 rules and regulations with the Secretary of State. The provisions of
31 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
32 seq.) shall apply to the promulgation of rules and regulations
33 concerning policy and administration, but not to other actions taken
34 under this act, such as parole hearings, parole revocation hearings and
35 review of parole cases. In determination of its rules and regulations
36 concerning policy and administration, the board shall consult the
37 Governor, the Commissioner of Corrections and the Juvenile Justice
38 Commission established pursuant to section 2 of P.L.1995, c.284
39 (C.52:17B-170).

40 e. The board, in conjunction with the Department of Corrections
41 and the Juvenile Justice Commission, shall develop a uniform
42 information system in order to closely monitor the parole process.
43 Such system shall include participation in the Uniform Parole Reports
44 of the National Council on Crime and Delinquency.

45 f. The board shall transmit a report of its work for the preceding
46 fiscal year, including information on the causes and extent of parole

1 recidivism, to the Governor, the Legislature and the Juvenile Justice
2 Commission annually. The report also may include relevant
3 information on compliance with established time frames in the
4 processing of parole eligibility determinations, the effectiveness of any
5 pertinent legislative or administrative measures, and any
6 recommendations to enhance board operations or to effectuate the
7 purposes of the "Parole Act of 1979," P.L.1979, c.441
8 (C.30:4-123.45 et seq.).

9 g. The board shall give public notice prior to considering any adult
10 inmate for release.

11 h. The board shall give notice to the appropriate prosecutor's office
12 and to the committing court prior to the initial consideration of any
13 juvenile inmate for release.

14 (cf: P.L.1995, c.280, s.35)

15
16 3. Section 10 of P.L.1979, c.441 (C.30:4-123.54) is amended to
17 read as follows:

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

23 b. (1) The report filed pursuant to subsection a. shall contain
24 preincarceration records of the inmate, including any history of civil
25 commitment, any disposition which arose out of any charges
26 suspended pursuant to N.J.S.2C:4-6 including records of the
27 disposition of those charges and any acquittals by reason of insanity
28 pursuant to N.J.S.2C:4-1, state the conduct of the inmate during the
29 current period of confinement, include a complete report on the
30 inmate's social and physical condition, include an investigation by the
31 Bureau of Parole of the inmate's parole plans, and present information
32 bearing upon the likelihood that the inmate will commit a crime under
33 the laws of this State if released on parole. The report shall also
34 include a complete psychological evaluation of the inmate in any case
35 in which the inmate was convicted of a first or second degree crime
36 involving violence and:

37 (a) the inmate has a prior acquittal by reason of insanity pursuant
38 to N.J.S.2C:4-1 or had charges suspended pursuant to N.J.S.2C:4-6;
39 or

40 (b) the inmate has a prior conviction for murder pursuant to
41 N.J.S.2C:11-3, aggravated sexual assault or sexual assault pursuant to
42 N.J.S.2C:14-2, kidnapping pursuant to N.J.S.2C:13-1, endangering the
43 welfare of a child which would constitute a crime of the second degree
44 pursuant to N.J.S.2C:24-4, or stalking which would constitute a crime
45 of the third degree pursuant to P.L.1992, c.209 (C.2C:12-10); or

46 (c) the inmate has a prior diagnosis of psychosis.

1 The inmate shall disclose any information concerning any history of
2 civil commitment.

3 The preincarceration records of the inmate contained in the report
4 shall include any psychological reports prepared in connection with
5 any court proceedings.

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 written or videotaped statement for the parole report to be considered
10 at the parole hearing or to testify to the parole board concerning his
11 harm at the time of the parole hearing. Each victim or relative shall be
12 responsible for notifying the board of his intention to submit such a
13 statement and to provide an appropriate mailing address.

14 The report may include a written or videotaped statement
15 concerning the continuing nature and extent of any physical harm or
16 psychological or emotional harm or trauma suffered by the victim, the
17 extent of any loss of earnings or ability to work suffered by the victim
18 and the continuing effect of the crime upon the victim's family. At the
19 time public notice is given that an inmate is being considered for
20 parole pursuant to this section, the board shall also notify any victim
21 or nearest relative who has previously contacted the board of the
22 availability to provide a written or videotaped statement for inclusion
23 in the parole report or to present testimony at 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 f. Notwithstanding any provision of this section, the board may
12 modify the time periods for submitting the reports required pursuant
13 to this section in processing an inmate whose parole eligibility date is
14 accelerated pursuant to section ¹[4] ¹¹ of P.L.1979, c.441 (C.30:4-
15 123.55).

16 (cf: P.L.1999, c.304, s.1)

17

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

20 11. a. Prior to the parole eligibility date of each adult inmate, a
21 designated hearing officer shall review the reports required by section
22 10 of P.L.1979, c.441 (C.30:4-123.54), and shall determine whether
23 there is a basis for denial of parole in the preparole report, any risk
24 assessment prepared in accordance with the provisions of subsection
25 e. of section 8 of P.L.1979, c.441 (C.30:4-123.52), or the inmate's
26 statement, or an indication, reduced to writing, that additional
27 information providing a basis for denial of parole would be developed
28 or produced at a hearing. If the hearing officer determines that there
29 is no basis in the preparole report, the risk assessment, or the inmate's
30 statement for denial of parole and that there is no additional relevant
31 information to be developed or produced at a hearing, he shall at least
32 60 days prior to the inmate's parole eligibility date recommend in
33 writing to the assigned member of the board panel that parole release
34 be granted.

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

1 concur in a recommendation of the designated hearing officer in favor
2 of release, then the parole release of an inmate in a county penal
3 institution shall be treated under the provisions of law otherwise
4 applicable to an adult inmate. In the case of an inmate sentenced to a
5 county penal institution, the performance of public service for the
6 remainder of the term of the sentence shall be a required condition of
7 parole, where 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 or videotaped statements at the hearing. Said hearing
19 shall be conducted by the appropriate board panel at least 30 days
20 prior to the eligibility date. At the hearing, which shall be informal,
21 the board panel shall receive as evidence any relevant and reliable
22 documents or videotaped or in person testimony, including that of the
23 victim of the crime or the members of the family of a murder victim if
24 the victim or a family member so desires. If a victim of a crime or the
25 relative of a murder victim chooses not to testify personally at the
26 hearing, the victim or relative may elect to present testimony to a
27 senior hearing officer designated by the board panel. The senior
28 hearing officer shall notify the victim of the right to have this
29 testimony videotaped. The senior hearing officer shall prepare a
30 report, transcript or videotape, if applicable, of the testimony for
31 presentation to the board panel at the hearing. All such evidence not
32 classified as confidential pursuant to rules and regulations of the board
33 or the Department of Corrections shall be disclosed to the inmate and
34 the inmate shall be permitted to rebut such evidence and to present
35 evidence on his own behalf. The decision of the board panel shall be
36 based solely on the evidence presented at the hearing.

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

1 e. Upon request by the hearing officer or the inmate, the time
2 limitations contained in section 10 of P.L.1979, c.441 (C.30:4-123.54)
3 and this section may be waived by the appropriate board panel for
4 good cause.

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

16 g. Notwithstanding the provision of any other law or regulation to
17 the contrary, the board may promulgate rules and regulations for the
18 processing of any inmate whose parole eligibility date is accelerated.
19 For purposes of this section, a parole eligibility date is accelerated
20 when an inmate becomes eligible for parole at the time of or within
21 120 days of an event or circumstance beyond the control of the parole
22 board, such as sentencing, resentencing or other amendment, including
23 the awarding of additional credit to the original sentence, restoration
24 of authorized institutional time credits or the application of authorized
25 institutional time credits on a future eligibility date established
26 pursuant to subsection a. of section 12 of P.L.1979, c.441 (C.30:4-
27 123.56) or subsection a. of section 20 of P.L.1979, c.441 (C.30:4-
28 123.64). The rules and regulations shall provide for the preparation
29 and review of a preparole report and shall require that a parole
30 consideration hearing be held not more than 120 days after the board
31 has received notice that an accelerated parole eligibility date has been
32 established.

33 (cf: P.L.1999, c.304, s.2)

34

35 5. This act shall take effect on the first day of the fourth month
36 after enactment.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 3092

with Assembly committee amendments

STATE OF NEW JERSEY

DATED: MARCH 1, 2001

The Assembly Appropriations Committee reports favorably Assembly Bill No. 3092 (1R), with committee amendments.

Assembly Bill No. 3092 (1R), as amended, addresses the recent backlog in parole eligibility hearings faced by the Parole Board and prevents a future reoccurrence of this problem by making various changes to the "Parole Act of 1979," P.L.1979, c.441 (C.30:4-123.45 et seq.).

Unfilled vacancies on the Parole Board and a deluge of inmates eligible for parole hearings caused serious delays in granting parole hearings, whereby a class action civil rights lawsuit was filed on behalf of inmates with overdue hearings. A settlement proposed by the Attorney General resulted in the State paying fines which were forwarded to a prisoners' advocacy group on behalf of incarcerated inmates who had not received timely parole hearings.

Specifically, this bill:

- C Increases the number of associate members of the parole board from 10 to 14;
- C Provides that the vice-chairman will assume the duties of the chairman when the chairman is unavailable or unable to perform his duties and that an alternate board member will assume the duties of an associate member under the same conditions or when the associate member assumes the duties of the chairman;
- C Permits the Governor to appoint a qualified person to assume the duties of any member when that member or an alternate member is absent, unavailable, or otherwise unable to perform the member's duties;
- C Permits the Governor to appoint up to four temporary acting parole board members for a term of three months. The chairman of the parole board must first certify that additional panels are needed temporarily to process parole decisions. Those appointees must be qualified with training or experience in law, sociology, criminal justice, juvenile justice or related branches of the social sciences. The Governor may extend a temporary member's term

for an additional three months if needed. Temporary acting members are authorized to participate in administrative review of initial parole hearing decisions, parole consideration hearings and determinations concerning revocation or rescission of parole;

- C Increases the number of panels on adult sentences from three to six, permits the chairman to assign a temporary acting member to a panel, and eliminates a permanent panel on young adult sentences;
- C Provides that the board's annual report may include relevant information on compliance with established time frames in processing parole eligibility determinations, the effectiveness of any pertinent legislative or administrative measures, and recommendations to enhance board operations or to effectuate the purposes of the "Parole Act of 1979;" and
- C Permits the board to promulgate rules and regulations for the processing of any inmate whose parole eligibility date is "accelerated," as defined in the bill to be beyond the control of the board such as within 120 days of the sentencing, additional credit or institutional time credits, and provides that the board may modify the time periods for submitting the required reports in processing such inmates.

FISCAL IMPACT:

Total cost for the additional board members, staff, equipment and administrative duties were estimated at \$685,000.

COMMITTEE AMENDMENTS:

The amendments add an appropriation to the bill in the amount of \$685,000 for salaries and benefits for the four additional board members, two administrative assistants, and equipment and administrative costs.

FISCAL NOTE
[First Reprint]
ASSEMBLY, No. 3092
STATE OF NEW JERSEY
209th LEGISLATURE

DATED: MARCH 21, 2001

SUMMARY

Synopsis: Increases membership of parole board; provides for appointment of temporary members and accelerates processing of certain inmates' cases.

Type of Impact: General Fund expenditure.

Agencies Affected: State Parole Board, Department of Corrections

Executive Estimate

Fiscal Impact	Year 1	Year 2	Year 3
State Cost	\$663,000	\$573,000	\$573,000

- ! The Office of Legislative Services (OLS) **concurs** with the Executive estimate.
- ! The bill increases the number of associate members of the parole board from 10 to 14. The bill also provides for the appointment of up to four temporary acting parole board members for a term of three months when needed. In addition, it increases the number of panels on adult sentences from three to six, and permits the chairman to assign a temporary acting member to a panel.
- ! The State Parole Board states that the two additional panels created by the bill would be staffed by an administrative assistant and two parole board members each. At a current salary of \$98,000 per parole board member and \$35,000 per administrative assistant, the total salary expense of the bill would be \$462,000. Fringe benefits costs would add \$111,000, for a total salary and fringe benefits cost of \$573,000. Vehicle and equipment cost would add a one-time cost of \$90,000 to the program.

BILL DESCRIPTION

Assembly Bill No. 3092 (1R) of 2001 increases the number of associate members of the parole board from 10 to 14. The bill also provides for the appointment of up to four temporary acting parole board members for a term of three months when needed. In addition, it increases the number of panels on adult sentences from three to six, and permits the chairman to assign a temporary acting member to a panel.

FISCAL ANALYSIS***EXECUTIVE BRANCH***

The State Parole Board states that the two additional panels created by the bill would be staffed by an administrative assistant and two parole board members each. At a current salary of \$98,000 per parole board member and \$35,000 per administrative assistant, the total salary expense of the bill would be \$462,000. Fringe benefits costs would add \$111,000, for a total salary and fringe benefits cost of \$573,000. The Parole Board notes that it would be necessary to provide two vehicles and office equipment for each panel, for a one-time cost of \$90,000 and a total first-year cost of \$663,000. Future year costs would decline as a result of the elimination of the one-time costs.

OFFICE OF LEGISLATIVE SERVICES

The Office of Legislative Services concurs with the Executive.

Section: *Judiciary*

Analyst: *Anne C. Raughley*
Lead Fiscal Analyst

Approved: *Alan R. Kooney*
Legislative Budget and Finance Officer

This fiscal note has been prepared pursuant to P.L.1980, c.67.

[Second Reprint]

ASSEMBLY, No. 3092

STATE OF NEW JERSEY
209th LEGISLATURE

INTRODUCED JANUARY 9, 2001

Sponsored by:

Assemblyman JAMES W. HOLZAPFEL

District 10 (Monmouth and Ocean)

Assemblyman TOM SMITH

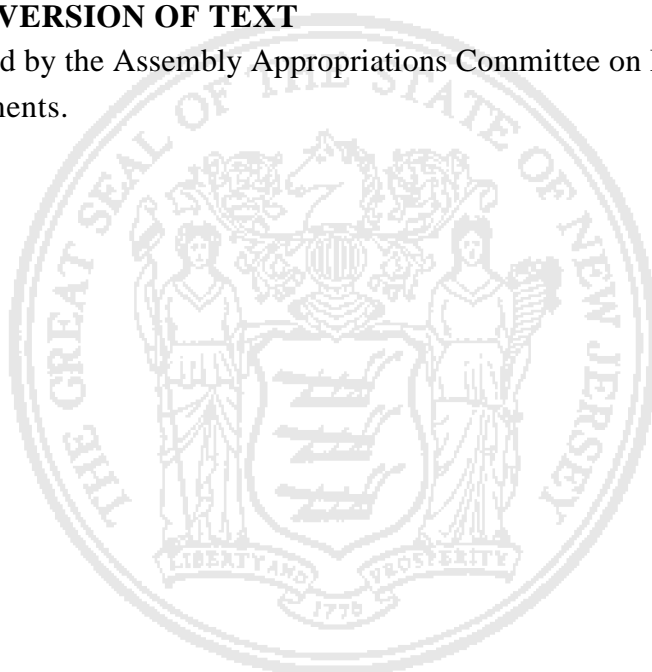
District 11 (Monmouth)

SYNOPSIS

Increases membership of parole board; provides for appointment of temporary members, accelerates processing of certain inmates' cases and appropriates \$685,000.

CURRENT VERSION OF TEXT

As reported by the Assembly Appropriations Committee on March 1, 2001, with amendments.



1 AN ACT concerning the parole board ²[and],² amending P.L.1979,
2 c.441 ²and making an appropriation².

3

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

6

7 1. Section 3 of P.L.1979, c.441 (C.30:4-123.47) is amended to
8 read as follows:

9 3. a. There is hereby created and established within the
10 Department of Corrections a State Parole Board which shall consist of
11 a chairman, [10] 14 associate members and one alternate board
12 member. The chairman, associate members and alternate board
13 member shall be appointed by the Governor with the advice and
14 consent of the Senate from qualified persons with training or
15 experience in law, sociology, criminal justice, juvenile justice or
16 related branches of the social sciences. Members of the board and the
17 alternate board member shall be appointed for terms of six years and
18 the terms of their successors shall be calculated from the expiration of
19 the incumbent's term. Members shall serve until their successors are
20 appointed and have qualified.

21 The Governor shall designate a vice-chairman from among the
22 associate members. The vice-chairman shall assume the duties of the
23 chairman when the chairman is absent, unavailable or otherwise
24 **[incapable of performing]** unable to perform his duties, or, in the case
25 of removal or a permanent incapacity, until the qualification of a
26 successor chairman appointed by the Governor.

27 The alternate board member may assume the duties of an associate
28 member when the associate member is absent, unavailable or otherwise
29 unable to perform his duties, or the associate member assumes the
30 duties of the chairman, and shall perform those duties only until the
31 associate resumes his duties, or, in the case of removal or a permanent
32 incapacity, the qualification of a successor appointed by the Governor.

33 b. (1) Any vacancy occurring in the membership of the board,
34 otherwise than by expiration of term, shall be filled in the same manner
35 as one occurring by expiration of term, but for the unexpired term
36 only. In the event that any member of the board **[shall be rendered**
37 **incapable of performing]** is absent, unavailable or otherwise unable to
38 perform his duties and the alternate board member is incapable of
39 performing that associate's duties, either because the alternate board
40 member has assumed the duties of another associate or is absent,
41 unavailable or otherwise [rendered incapable of performing] unable

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 Assembly ALP committee amendments adopted February 5, 2001.

² Assembly AAP committee amendments adopted March 1, 2001.

1 to perform the associate's duties, the Governor shall appoint a
2 qualified person to act in ~~his~~ the alternate board member's stead
3 during the period of ~~his~~ the alternate's incapacity. Any member of
4 the board, including the alternate board member, may be removed
5 from office by the Governor for cause.

6 (2) Upon certification of the chairman that additional parole panels
7 are needed on a temporary basis for the efficient processing of parole
8 decisions, the Governor also may appoint not more than four
9 temporary acting parole board members from qualified persons with
10 training or experience in law, sociology, criminal justice, juvenile
11 justice or related branches of the social sciences. A temporary acting
12 member shall be appointed for a term of three months. The Governor
13 may extend the appointment of any or all of the temporary acting
14 members for additional terms of three months, upon certification of the
15 chairman that additional parole panels are needed on a temporary basis
16 for the efficient processing of parole decisions. A temporary acting
17 member shall be authorized to participate in administrative review of
18 initial parole hearing decisions, parole consideration hearings and
19 determinations concerning revocation or rescission of parole.

20 c. The members of the board shall devote their full time to the
21 performance of their duties and be compensated pursuant to section 2
22 of P.L.1974, c.55 (C.52:14-15.108). The alternate member and any
23 temporary acting members shall be entitled to compensation. The
24 amount of such compensation shall be determined by multiplying the
25 rate an associate member would be paid on a per diem basis times the
26 number of days the alternate board member or temporary acting
27 member actually performed the duties of an associate member in
28 accordance with the provisions of this section.

29 d. At the time of appointment, the Governor shall designate two
30 associate members of the board to serve on a panel on juvenile
31 commitments. The remaining ~~eight~~ 12 associate members of the
32 board shall be appointed by the Governor to panels on adult sentences
33 ~~]. The~~ and assigned by the chairman of the board ~~shall assign six of~~
34 ~~the associate members so appointed~~ to ~~three~~six panels on ~~prison~~
35 adult sentences ~~], and the remaining two associate members so~~
36 ~~appointed to a panel on young adult sentences~~]. The chairman of the
37 board shall be a member of each panel. Nothing provided herein shall
38 prohibit the chairman from reassigning any member appointed to a
39 panel on adult sentences to facilitate the efficient function of the
40 board. Nothing provided herein shall prohibit the chairman from
41 temporarily reassigning any member appointed to a panel on juvenile
42 commitments to a panel on adult sentences ~~either as a member of a~~
43 ~~panel on prison sentences~~ or a panel on young adult sentences to
44 facilitate the efficient function of the board. The alternate board
45 member may assume, in accordance with the provisions of this section,

1 the duties of any associate member, regardless of whether that
2 associate member serves on a panel on juvenile commitments or panels
3 on adult sentences [either as a member of a panel on prison sentences
4 or a panel on young adult sentences.] The chairman may assign a
5 temporary acting member to a panel on adult sentences or juvenile
6 commitments.

7 (cf: P.L.1999, c.139, s.1)

8

9 2. Section 4 of P.L.1979, c.441 (C.30:4-123.48) is amended to
10 read as follows:

11 4. a. All policies and determinations of the Parole Board shall be
12 made by the majority vote of the members.

13 b. Except where otherwise noted, parole determinations on
14 individual cases pursuant to this act shall be made by the majority vote
15 of a quorum of the appropriate board panel established pursuant to this
16 section.

17 c. The chairman of the board shall be the chief executive officer of
18 the board and, after consulting with the board, shall be responsible for
19 designating the time and place of all board meetings, for appointing the
20 board's employees, for organizing, controlling and directing the work
21 of the board and its employees, and for preparation and justification of
22 the board's budget. The nonsecretarial professional and supervisory
23 employees of the board such as, but not limited to, hearing officers,
24 shall serve at the pleasure of the chairman and shall not be subject to
25 the provisions of Title 11 of the Revised Statutes. Nothing contained
26 herein shall be deemed to affect the employees of the Department of
27 Corrections, such as parole officers assigned to supervise parolees.

28 d. The board shall promulgate such reasonable rules and
29 regulations, consistent with this act, as may be necessary for the
30 proper discharge of its responsibilities. The chairman shall file such
31 rules and regulations with the Secretary of State. The provisions of
32 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
33 seq.) shall apply to the promulgation of rules and regulations
34 concerning policy and administration, but not to other actions taken
35 under this act, such as parole hearings, parole revocation hearings and
36 review of parole cases. In determination of its rules and regulations
37 concerning policy and administration, the board shall consult the
38 Governor, the Commissioner of Corrections and the Juvenile Justice
39 Commission established pursuant to section 2 of P.L.1995, c.284
40 (C.52:17B-170).

41 e. The board, in conjunction with the Department of Corrections
42 and the Juvenile Justice Commission, shall develop a uniform
43 information system in order to closely monitor the parole process.
44 Such system shall include participation in the Uniform Parole Reports
45 of the National Council on Crime and Delinquency.

46 f. The board shall transmit a report of its work for the preceding

1 fiscal year, including information on the causes and extent of parole
2 recidivism, to the Governor, the Legislature and the Juvenile Justice
3 Commission annually. The report also may include relevant
4 information on compliance with established time frames in the
5 processing of parole eligibility determinations, the effectiveness of any
6 pertinent legislative or administrative measures, and any
7 recommendations to enhance board operations or to effectuate the
8 purposes of the "Parole Act of 1979," P.L.1979, c.441
9 (C.30:4-123.45 et seq.).

10 g. The board shall give public notice prior to considering any adult
11 inmate for release.

12 h. The board shall give notice to the appropriate prosecutor's office
13 and to the committing court prior to the initial consideration of any
14 juvenile inmate for release.

15 (cf: P.L.1995, c.280, s.35)

16

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

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

24 b. (1) The report filed pursuant to subsection a. shall contain
25 preincarceration records of the inmate, including any history of civil
26 commitment, any disposition which arose out of any charges
27 suspended pursuant to N.J.S.2C:4-6 including records of the
28 disposition of those charges and any acquittals by reason of insanity
29 pursuant to N.J.S.2C:4-1, state the conduct of the inmate during the
30 current period of confinement, include a complete report on the
31 inmate's social and physical condition, include an investigation by the
32 Bureau of Parole of the inmate's parole plans, and present information
33 bearing upon the likelihood that the inmate will commit a crime under
34 the laws of this State if released on parole. The report shall also
35 include a complete psychological evaluation of the inmate in any case
36 in which the inmate was convicted of a first or second degree crime
37 involving violence and:

38 (a) the inmate has a prior acquittal by reason of insanity pursuant
39 to N.J.S.2C:4-1 or had charges suspended pursuant to N.J.S.2C:4-6;
40 or

41 (b) the inmate has a prior conviction for murder pursuant to
42 N.J.S.2C:11-3, aggravated sexual assault or sexual assault pursuant to
43 N.J.S.2C:14-2, kidnapping pursuant to N.J.S.2C:13-1, endangering the
44 welfare of a child which would constitute a crime of the second degree
45 pursuant to N.J.S.2C:24-4, or stalking which would constitute a crime
46 of the third degree pursuant to P.L.1992, c.209 (C.2C:12-10); or

1 (c) the inmate has a prior diagnosis of psychosis.

2 The inmate shall disclose any information concerning any history of
3 civil commitment.

4 The preincarceration records of the inmate contained in the report
5 shall include any psychological reports prepared in connection with
6 any court proceedings.

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

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

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

27 c. A copy of the report filed pursuant to subsection a. of this
28 section, excepting those documents which have been classified as
29 confidential pursuant to rules and regulations of the board or the
30 Department of Corrections, shall be served on the inmate at the time
31 it is filed with the board panel. The inmate may file with the board
32 panel a written statement regarding the report, but shall do so within
33 105 days prior to the primary parole eligibility date.

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

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

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

12 f. Notwithstanding any provision of this section, the board may
13 modify the time periods for submitting the reports required pursuant
14 to this section in processing an inmate whose parole eligibility date is
15 accelerated pursuant to section ¹[4] ¹¹ of P.L.1979, c.441 (C.30:4-
16 123.55).

17 (cf: P.L.1999, c.304, s.1)

18

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

21 11. a. Prior to the parole eligibility date of each adult inmate, a
22 designated hearing officer shall review the reports required by section
23 10 of P.L.1979, c.441 (C.30:4-123.54), and shall determine whether
24 there is a basis for denial of parole in the preparole report, any risk
25 assessment prepared in accordance with the provisions of subsection
26 e. of section 8 of P.L.1979, c.441 (C.30:4-123.52), or the inmate's
27 statement, or an indication, reduced to writing, that additional
28 information providing a basis for denial of parole would be developed
29 or produced at a hearing. If the hearing officer determines that there
30 is no basis in the preparole report, the risk assessment, or the inmate's
31 statement for denial of parole and that there is no additional relevant
32 information to be developed or produced at a hearing, he shall at least
33 60 days prior to the inmate's parole eligibility date recommend in
34 writing to the assigned member of the board panel that parole release
35 be granted.

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

1 recommend release on parole or if the assigned member does not
2 concur in a recommendation of the designated hearing officer in favor
3 of release, then the parole release of an inmate in a county penal
4 institution shall be treated under the provisions of law otherwise
5 applicable to an adult inmate. In the case of an inmate sentenced to a
6 county penal institution, the performance of public service for the
7 remainder of the term of the sentence shall be a required condition of
8 parole, where appropriate.

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

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

1 board.

2 e. Upon request by the hearing officer or the inmate, the time
3 limitations contained in section 10 of P.L.1979, c.441 (C.30:4-123.54)
4 and this section may be waived by the appropriate board panel for
5 good cause.

6 f. Notwithstanding the provision of any other law to the contrary,
7 if an inmate incarcerated for murder is recommended for parole by the
8 assigned board member or the appropriate board panel, parole shall
9 not be certified until a majority of the full parole board, after
10 conducting a hearing, concurs in that recommendation. The board
11 shall notify the victim's family of that hearing and family members shall
12 be afforded the opportunity to testify in person or to submit written or
13 videotaped statements. The provisions of this subsection shall not
14 apply to an inmate who has his parole revoked and is returned to
15 custody pursuant to the provisions of section 19 of P.L.1979, c.441
16 (C.30:4-123.63).

17 g. Notwithstanding the provision of any other law or regulation to
18 the contrary, the board may promulgate rules and regulations for the
19 processing of any inmate whose parole eligibility date is accelerated.
20 For purposes of this section, a parole eligibility date is accelerated
21 when an inmate becomes eligible for parole at the time of or within
22 120 days of an event or circumstance beyond the control of the parole
23 board, such as sentencing, resentencing or other amendment, including
24 the awarding of additional credit to the original sentence, restoration
25 of authorized institutional time credits or the application of authorized
26 institutional time credits on a future eligibility date established
27 pursuant to subsection a. of section 12 of P.L.1979, c.441 (C.30:4-
28 123.56) or subsection a. of section 20 of P.L.1979, c.441 (C.30:4-
29 123.64). The rules and regulations shall provide for the preparation
30 and review of a preparole report and shall require that a parole
31 consideration hearing be held not more than 120 days after the board
32 has received notice that an accelerated parole eligibility date has been
33 established.

34 (cf: P.L.1999, c.304, s.2)

35

36 ²5. There is appropriated from the General Fund to the Department
37 of Corrections for the State Parole Board \$685,000 to effectuate the
38 purposes of this act. Of this amount, \$462,000 shall be used for the
39 salaries of four additional board members and two administrative
40 assistants, \$115,500 for employee benefits and \$90,000 for equipment
41 and administrative costs.²

42

43 ²[5.] 6.² This act shall take effect on the first day of the fourth
44 month after enactment.

SENATE JUDICIARY COMMITTEE

STATEMENT TO

[Second Reprint]
ASSEMBLY, No. 3092

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 25, 2001

The Senate Judiciary Committee reports favorably and with committee amendments Assembly Bill No. 3092 (2R).

This bill is intended to address the recent backlog in parole eligibility hearings faced by the Parole Board and prevent a future reoccurrence of this problem by making various changes to the "Parole Act of 1979," P.L.1979, c.441 (C.30:4-123.45 et seq.).

Specifically this bill would:

- ! Increase the number of associate members of the parole board from 10 to 14;
- ! Provide that the vice-chairman will assume the duties of the chairman when the chairman is unavailable or unable to perform his duties and that an alternate board member will assume the duties of an associate member under the same conditions or when the associate member assumes the duties of the chairman;
- ! Permit the Governor to appoint a qualified person to assume the duties of any member when that member or an alternate member is absent, unavailable, or otherwise unable to perform the member's duties;
- ! Permit the Governor to appoint up to four temporary acting parole board members for a term of three months. the chairman of the parole board must first certify that additional panels are needed temporarily to process parole decisions. Those appointees must be qualified with training or experience in law, sociology, criminal justice, juvenile justice or related branches of the social sciences. The Governor may extend a temporary acting member's term for an additional three months if needed. Temporary acting members are authorized to participate in administrative review of initial parole hearing decisions, parole consideration hearings and determinations concerning revocation or rescission of parole;
- ! Increase the number of panels on adult sentences from three to six, permit the chairman to assign a temporary acting member to a panel, and eliminate a permanent panel on young adult sentences;
- ! Provide that the board's annual report may include relevant

information on compliance with established time frames in processing parole eligibility determinations, the effectiveness of any pertinent legislative or administrative measures, and recommendations to enhance board operations or to effectuate the purpose of the "Parole Act of 1979;" and

- ! Permit the board to promulgate rules and regulations for the processing of any inmate who parole eligibility date is "accelerated," as defined in the bill to beyond the control of the board such as within 120 days of the sentencing, additional credit or institutional time credits, and provides that the board may modify the time periods for submitting the required reports in processing such inmates.

This bill appropriates \$685,000 to the Department of Corrections for use by the Parole Board in carry out the provisions of the bill. Of this amount, \$462,000 would be used for the salaries of four additional board members and two staff members and two staff assistants, \$115,500 for employee benefits and \$90,000 for equipment and administrative costs.

The amendments adopted by the committee:

1. Increase the number of alternate parole board members from one to three.
2. Stagger the initial terms of the four new positions on the parole board: one would be appointed for six years; one for five years; one for four years and one for three years.
3. Include language clarifying that those employees of the Division of Parole who have permanent career status would maintain that status.
4. Change the bill's effective date so that the bill would take effect immediately.

[Third Reprint]

ASSEMBLY, No. 3092

STATE OF NEW JERSEY
209th LEGISLATURE

INTRODUCED JANUARY 9, 2001

Sponsored by:

Assemblyman JAMES W. HOLZAPFEL

District 10 (Monmouth and Ocean)

Assemblyman TOM SMITH

District 11 (Monmouth)

Co-Sponsored by:

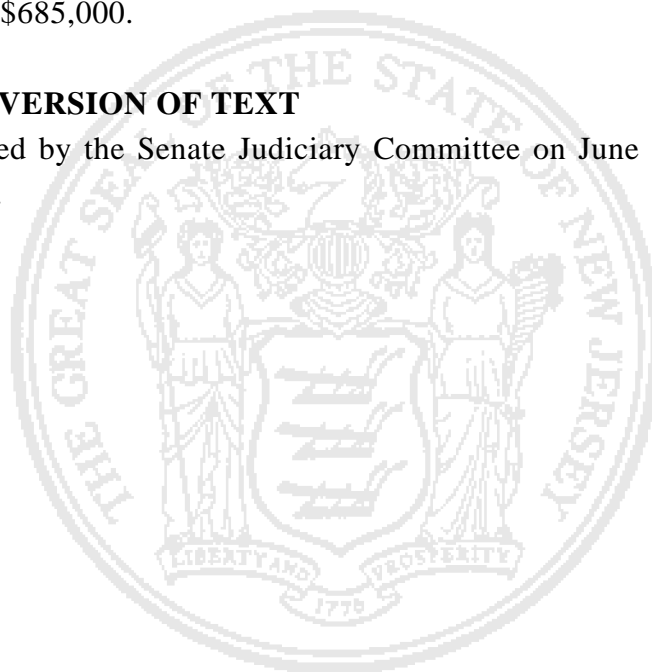
**Senators Kosco, Gormley, Allen, Bucco, Cafiero, Robertson, Sinagra,
Matheussen and Palaia**

SYNOPSIS

Increases membership of parole board; provides for appointment of temporary members, accelerates processing of certain inmates' cases and appropriates \$685,000.

CURRENT VERSION OF TEXT

As reported by the Senate Judiciary Committee on June 25, 2001, with amendments.



(Sponsorship Updated As Of: 6/29/2001)

1 AN ACT concerning the parole board ²[and],² amending P.L.1979,
2 c.441 ²and making an appropriation².

3

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

6

7 1. Section 3 of P.L.1979, c.441 (C.30:4-123.47) is amended to
8 read as follows:

9 3. a. There is hereby created and established within the
10 Department of Corrections a State Parole Board which shall consist of
11 a chairman, [10] 14 associate members and ³[one] three³ alternate
12 board ³[member] members³. The chairman, associate members and
13 alternate board member shall be appointed by the Governor with the
14 advice and consent of the Senate from qualified persons with training
15 or experience in law, sociology, criminal justice, juvenile justice or
16 related branches of the social sciences. Members of the board and the
17 alternate board member shall be appointed for terms of six years and
18 the terms of their successors shall be calculated from the expiration of
19 the incumbent's term. Members shall serve until their successors are
20 appointed and have qualified.

21 The Governor shall designate a vice-chairman from among the
22 associate members. The vice-chairman shall assume the duties of the
23 chairman when the chairman is absent, unavailable or otherwise
24 [incapable of performing] unable to perform his duties, or, in the case
25 of removal or a permanent incapacity, until the qualification of a
26 successor chairman appointed by the Governor.

27 The alternate board member may assume the duties of an associate
28 member when the associate member is absent, unavailable or otherwise
29 unable to perform his duties, or the associate member assumes the
30 duties of the chairman, and shall perform those duties only until the
31 associate resumes his duties, or, in the case of removal or a permanent
32 incapacity, the qualification of a successor appointed by the Governor.

33 b. (1) Any vacancy occurring in the membership of the board,
34 otherwise than by expiration of term, shall be filled in the same manner
35 as one occurring by expiration of term, but for the unexpired term
36 only. ³[In the event that any member of the board [shall be rendered
37 incapable of performing] is absent, unavailable or otherwise unable to
38 perform his duties and the alternate board member is incapable of
39 performing that associate's duties, either because the alternate board
40 member has assumed the duties of another associate or is absent,

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 Assembly ALP committee amendments adopted February 5, 2001.

² Assembly AAP committee amendments adopted March 1, 2001.

³ Senate SJU committee amendments adopted June 25, 2001.

1 unavailable or otherwise [rendered incapable of performing] unable
2 to perform the associate's duties, the Governor shall appoint a
3 qualified person to act in [his] the alternate board member's stead
4 during the period of [his] the alternate's incapacity.]³ Any member
5 of the board, including ³[the] any³ alternate board member, may be
6 removed from office by the Governor for cause.

7 (2) Upon certification of the chairman that additional parole panels
8 are needed on a temporary basis for the efficient processing of parole
9 decisions, the Governor also may appoint not more than four
10 temporary acting parole board members from qualified persons with
11 training or experience in law, sociology, criminal justice, juvenile
12 justice or related branches of the social sciences. A temporary acting
13 member shall be appointed for a term of three months. The Governor
14 may extend the appointment of any or all of the temporary acting
15 members for additional terms of three months, upon certification of the
16 chairman that additional parole panels are needed on a temporary basis
17 for the efficient processing of parole decisions. A temporary acting
18 member shall be authorized to participate in administrative review of
19 initial parole hearing decisions, parole consideration hearings and
20 determinations concerning revocation or rescission of parole.

21 c. The members of the board shall devote their full time to the
22 performance of their duties and be compensated pursuant to section 2
23 of P.L.1974, c.55 (C.52:14-15.108). ³[The] Any³ alternate member
24 and any temporary acting members shall be entitled to compensation.
25 The amount of such compensation shall be determined by multiplying
26 the rate an associate member would be paid on a per diem basis times
27 the number of days the alternate board member or temporary acting
28 member actually performed the duties of an associate member in
29 accordance with the provisions of this section.

30 d. At the time of appointment, the Governor shall designate two
31 associate members of the board to serve on a panel on juvenile
32 commitments. The remaining [eight] 12 associate members of the
33 board shall be appointed by the Governor to panels on adult sentences
34 [. The] and assigned by the chairman of the board [shall assign six of
35 the associate members so appointed] to [three]six panels on [prison]
36 adult sentences [, and the remaining two associate members so
37 appointed to a panel on young adult sentences]. The chairman of the
38 board shall be a member of each panel. Nothing provided herein shall
39 prohibit the chairman from reassigning any member appointed to a
40 panel on adult sentences to facilitate the efficient function of the
41 board. Nothing provided herein shall prohibit the chairman from
42 temporarily reassigning any member appointed to a panel on juvenile
43 commitments to a panel on adult sentences [either as a member of a
44 panel on prison sentences] or a panel on young adult sentences to
45 facilitate the efficient function of the board. The alternate board

1 member may assume, in accordance with the provisions of this section,
2 the duties of any associate member, regardless of whether that
3 associate member serves on a panel on juvenile commitments or panels
4 on adult sentences [either as a member of a panel on prison sentences
5 or a panel on young adult sentences.] The chairman may assign a
6 temporary acting member to a panel on adult sentences or juvenile
7 commitments.

8 ³e. Of the associate members first appointed to the four positions
9 created pursuant to the provisions of P.L. , c. (now pending before
10 the Legislature as this bill), one shall be appointed for a term of six
11 years; one shall be appointed for a term of five years; one shall be
12 appointed for a term of four years and one shall be appointed for a
13 term of three years.³

14 (cf: P.L.1999, c.139, s.1)

15
16 2. Section 4 of P.L.1979, c.441 (C.30:4-123.48) is amended to
17 read as follows:

18 4. a. All policies and determinations of the Parole Board shall be
19 made by the majority vote of the members.

20 b. Except where otherwise noted, parole determinations on
21 individual cases pursuant to this act shall be made by the majority vote
22 of a quorum of the appropriate board panel established pursuant to this
23 section.

24 c. The chairman of the board shall be the chief executive officer of
25 the board and, after consulting with the board, shall be responsible for
26 designating the time and place of all board meetings, for appointing the
27 board's employees, for organizing, controlling and directing the work
28 of the board and its employees, and for preparation and justification of
29 the board's budget. ³[The nonsecretarial professional and supervisory
30 employees of the board such as, but not limited to, hearing officers,
31 shall serve at the pleasure of the chairman and shall not be subject to
32 the provisions of Title 11 of the Revised Statutes. Nothing contained
33 herein shall be deemed to affect the employees of the Department of
34 Corrections, such as parole officers assigned to supervise parolees.]
35 Hearing officers and such other positions as are designated by the
36 Commissioner of the Department of Personnel shall serve at the
37 pleasure of the chairman and shall not be subject to the provisions of
38 Title 11A of the New Jersey Statutes. All other employees shall be in
39 the career service and subject to the provisions of Title 11A of the
40 New Jersey Statutes. All such career services employees who are
41 employed by the State Parole Board on September 5, 2001 shall have
42 permanent career service status with seniority awarded from the date
43 of their appointments. Parole officers assigned to supervise adult
44 parolees and all supervisory titles associated with the supervision of
45 adult parolees in the parole officer series shall be classified employees
46 subject to the provisions of Title 11A of the New Jersey Statutes.

1 Parole officers assigned to supervise adult parolees and all supervisory
2 titles associated with the supervision of adult parolees in the parole
3 officer job classification series shall be organizationally assigned to the
4 State Parole Board with a sworn member of the Division of Parole
5 appointed to act as director of parole supervision. The director of
6 parole supervision shall report directly to the Chairman of the State
7 Parole Board or to such person as the chairman may designate³.

8 d. The board shall promulgate such reasonable rules and
9 regulations, consistent with this act, as may be necessary for the
10 proper discharge of its responsibilities. The chairman shall file such
11 rules and regulations with the Secretary of State. The provisions of
12 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
13 seq.) shall apply to the promulgation of rules and regulations
14 concerning policy and administration, but not to other actions taken
15 under this act, such as parole hearings, parole revocation hearings and
16 review of parole cases. In determination of its rules and regulations
17 concerning policy and administration, the board shall consult the
18 Governor, the Commissioner of Corrections and the Juvenile Justice
19 Commission established pursuant to section 2 of P.L.1995, c.284
20 (C.52:17B-170).

21 e. The board, in conjunction with the Department of Corrections
22 and the Juvenile Justice Commission, shall develop a uniform
23 information system in order to closely monitor the parole process.
24 Such system shall include participation in the Uniform Parole Reports
25 of the National Council on Crime and Delinquency.

26 f. The board shall transmit a report of its work for the preceding
27 fiscal year, including information on the causes and extent of parole
28 recidivism, to the Governor, the Legislature and the Juvenile Justice
29 Commission annually. The report also may include relevant
30 information on compliance with established time frames in the
31 processing of parole eligibility determinations, the effectiveness of any
32 pertinent legislative or administrative measures, and any
33 recommendations to enhance board operations or to effectuate the
34 purposes of the "Parole Act of 1979," P.L.1979, c.441
35 (C.30:4-123.45 et seq.).

36 g. The board shall give public notice prior to considering any adult
37 inmate for release.

38 h. The board shall give notice to the appropriate prosecutor's office
39 and to the committing court prior to the initial consideration of any
40 juvenile inmate for release.

41 (cf: P.L.2001, c.79, s.5)

42
43 3. Section 10 of P.L.1979, c.441 (C.30:4-123.54) is amended to
44 read as follows:

45 10. a. At least 120 days but not more than 180 days prior to the
46 parole eligibility date of each adult inmate, a report concerning the

1 inmate shall be filed with the appropriate board panel, by the staff
2 members designated by the superintendent or other chief executive
3 officer of the institution in which the inmate is held.

4 b. (1) The report filed pursuant to subsection a. shall contain
5 preincarceration records of the inmate, including any history of civil
6 commitment, any disposition which arose out of any charges
7 suspended pursuant to N.J.S.2C:4-6 including records of the
8 disposition of those charges and any acquittals by reason of insanity
9 pursuant to N.J.S.2C:4-1, state the conduct of the inmate during the
10 current period of confinement, include a complete report on the
11 inmate's social and physical condition, include an investigation by the
12 ³[Bureau] Division³ of Parole of the inmate's parole plans, and
13 present information bearing upon the likelihood that the inmate will
14 commit a crime under the laws of this State if released on parole. The
15 report shall also include a complete psychological evaluation of the
16 inmate in any case in which the inmate was convicted of a first or
17 second degree crime involving violence and:

18 (a) the inmate has a prior acquittal by reason of insanity pursuant
19 to N.J.S.2C:4-1 or had charges suspended pursuant to N.J.S.2C:4-6;
20 or

21 (b) the inmate has a prior conviction for murder pursuant to
22 N.J.S.2C:11-3, aggravated sexual assault or sexual assault pursuant to
23 N.J.S.2C:14-2, kidnapping pursuant to N.J.S.2C:13-1, endangering the
24 welfare of a child which would constitute a crime of the second degree
25 pursuant to N.J.S.2C:24-4, or stalking which would constitute a crime
26 of the third degree pursuant to P.L.1992, c.209 (C.2C:12-10); or

27 (c) the inmate has a prior diagnosis of psychosis.

28 The inmate shall disclose any information concerning any history of
29 civil commitment.

30 The preincarceration records of the inmate contained in the report
31 shall include any psychological reports prepared in connection with
32 any court proceedings.

33 (2) At the time of sentencing, the prosecutor shall notify any victim
34 injured as a result of a crime of the first or second degree or the
35 nearest relative of a murder victim of the opportunity to present a
36 written or videotaped statement for the parole report to be considered
37 at the parole hearing or to testify to the parole board concerning his
38 harm at the time of the parole hearing. Each victim or relative shall be
39 responsible for notifying the board of his intention to submit such a
40 statement and to provide an appropriate mailing address.

41 The report may include a written or videotaped statement
42 concerning the continuing nature and extent of any physical harm or
43 psychological or emotional harm or trauma suffered by the victim, the
44 extent of any loss of earnings or ability to work suffered by the victim
45 and the continuing effect of the crime upon the victim's family. At the
46 time public notice is given that an inmate is being considered for

1 parole pursuant to this section, the board shall also notify any victim
2 or nearest relative who has previously contacted the board of the
3 availability to provide a written or videotaped statement for inclusion
4 in the parole report or to present testimony at the parole hearing.

5 The board shall notify such person at his last known mailing
6 address.

7 c. A copy of the report filed pursuant to subsection a. of this
8 section, excepting those documents which have been classified as
9 confidential pursuant to rules and regulations of the board or the
10 Department of Corrections, shall be served on the inmate at the time
11 it is filed with the board panel. The inmate may file with the board
12 panel a written statement regarding the report, but shall do so within
13 105 days prior to the primary parole eligibility date.

14 d. Upon receipt of the public notice pursuant to section 1 of
15 P.L.1979, c.441 (C.30:4-123.45), a county prosecutor may request
16 from the parole board a copy of the report on any adult inmate
17 prepared pursuant to subsection a. of this section, which shall be
18 expeditiously forwarded to the county prosecutor by the parole board
19 by mail, courier, or other means of delivery. Upon receipt of the
20 report, the prosecutor has 10 working days to review the report and
21 notify the parole board of the prosecutor's comments, if any, or notify
22 the parole board of the prosecutor's intent to provide comments. If
23 the county prosecutor does not provide comments or notify the parole
24 board of the prosecutor's intent to provide comments within the 10
25 working days, the parole board may presume that the prosecutor does
26 not wish to provide comments and may proceed with the parole
27 consideration. Any comments provided by a county prosecutor shall
28 be delivered to the parole board by the same method by which the
29 county prosecutor received the report. The confidentiality of the
30 contents in a report which are classified as confidential shall be
31 maintained and shall not be disclosed to any person who is not
32 authorized to receive or review a copy of the report containing the
33 confidential information.

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

38 f. Notwithstanding any provision of this section, the board may
39 modify the time periods for submitting the reports required pursuant
40 to this section in processing an inmate whose parole eligibility date is
41 accelerated pursuant to section 1 [4] 11¹ of P.L.1979, c.441 (C.30:4-
42 123.55).

43 (cf: P.L.1999, c.304, s.1)

44

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

1 11. a. Prior to the parole eligibility date of each adult inmate, a
2 designated hearing officer shall review the reports required by section
3 10 of P.L.1979, c.441 (C.30:4-123.54), and shall determine whether
4 there is a basis for denial of parole in the preparole report, any risk
5 assessment prepared in accordance with the provisions of subsection
6 e. of section 8 of P.L.1979, c.441 (C.30:4-123.52), or the inmate's
7 statement, or an indication, reduced to writing, that additional
8 information providing a basis for denial of parole would be developed
9 or produced at a hearing. If the hearing officer determines that there
10 is no basis in the preparole report, the risk assessment, or the inmate's
11 statement for denial of parole and that there is no additional relevant
12 information to be developed or produced at a hearing, he shall at least
13 60 days prior to the inmate's parole eligibility date recommend in
14 writing to the assigned member of the board panel that parole release
15 be granted.

16 b. If the assigned member of the board panel or in the case of an
17 inmate sentenced to a county penal institution, the assigned member
18 concurs in the hearing officer's recommendation, he shall certify parole
19 release pursuant to section 15 of P.L.1979, c.441 (C.30:4-123.59) as
20 soon as practicable after the eligibility date and so notify the inmate
21 and the board. In the case of an inmate sentenced to a county penal
22 institution the board shall certify parole release or deny parole as
23 provided by this section, except with regard to time periods for notice
24 and parole processing which are authorized by or otherwise adopted
25 pursuant to subsection g. of section 7 of P.L.1979, c.441
26 (C.30:4-123.51). If the designated hearing officer does not
27 recommend release on parole or if the assigned member does not
28 concur in a recommendation of the designated hearing officer in favor
29 of release, then the parole release of an inmate in a county penal
30 institution shall be treated under the provisions of law otherwise
31 applicable to an adult inmate. In the case of an inmate sentenced to a
32 county penal institution, the performance of public service for the
33 remainder of the term of the sentence shall be a required condition of
34 parole, where appropriate.

35 c. If the hearing officer or the assigned member determines that
36 there is a basis for denial of parole, or that a hearing is otherwise
37 necessary, the hearing officer or assigned member shall notify the
38 appropriate board panel and the inmate in writing of his determination,
39 and of a date for a parole consideration hearing. The board panel shall
40 notify the victim of the crime, if the crime for which the inmate is
41 incarcerated was a crime of the first or second degree, or the victim's
42 nearest relative if the crime was murder, as appropriate, who was
43 previously contacted by the board and who has indicated his intention
44 to the board to testify at the hearing, of the opportunity to testify or
45 submit written or videotaped statements at the hearing. Said hearing
46 shall be conducted by the appropriate board panel at least 30 days

1 prior to the eligibility date. At the hearing, which shall be informal,
2 the board panel shall receive as evidence any relevant and reliable
3 documents or videotaped or in person testimony, including that of the
4 victim of the crime or the members of the family of a murder victim if
5 the victim or a family member so desires. If a victim of a crime or the
6 relative of a murder victim chooses not to testify personally at the
7 hearing, the victim or relative may elect to present testimony to a
8 senior hearing officer designated by the board panel. The senior
9 hearing officer shall notify the victim of the right to have this
10 testimony videotaped. The senior hearing officer shall prepare a
11 report, transcript or videotape, if applicable, of the testimony for
12 presentation to the board panel at the hearing. All such evidence not
13 classified as confidential pursuant to rules and regulations of the board
14 or the Department of Corrections shall be disclosed to the inmate and
15 the inmate shall be permitted to rebut such evidence and to present
16 evidence on his own behalf. The decision of the board panel shall be
17 based solely on the evidence presented at the hearing.

18 d. At the conclusion of the parole consideration hearing, the board
19 panel shall either (1) certify the parole release of the inmate pursuant
20 to section 15 of this act as soon as practicable after the eligibility date
21 and so notify the inmate and the board, or (2) deny parole and file with
22 the board within 30 days of the hearing a statement setting forth the
23 decision, the particular reasons therefor, except information classified
24 as confidential pursuant to rules and regulations of the board or the
25 Department of Corrections, a copy of which statement shall be served
26 upon the inmate together with notice of his right to appeal to the
27 board.

28 e. Upon request by the hearing officer or the inmate, the time
29 limitations contained in section 10 of P.L.1979, c.441 (C.30:4-123.54)
30 and this section may be waived by the appropriate board panel for
31 good cause.

32 f. Notwithstanding the provision of any other law to the contrary,
33 if an inmate incarcerated for murder is recommended for parole by the
34 assigned board member or the appropriate board panel, parole shall
35 not be certified until a majority of the full parole board, after
36 conducting a hearing, concurs in that recommendation. The board
37 shall notify the victim's family of that hearing and family members shall
38 be afforded the opportunity to testify in person or to submit written or
39 videotaped statements. The provisions of this subsection shall not
40 apply to an inmate who has his parole revoked and is returned to
41 custody pursuant to the provisions of section 19 of P.L.1979, c.441
42 (C.30:4-123.63).

43 g. Notwithstanding the provision of any other law or regulation to
44 the contrary, the board may promulgate rules and regulations for the
45 processing of any inmate whose parole eligibility date is accelerated.
46 For purposes of this section, a parole eligibility date is accelerated

1 when an inmate becomes eligible for parole at the time of or within
2 120 days of an event or circumstance beyond the control of the parole
3 board, such as sentencing, resentencing or other amendment, including
4 the awarding of additional credit to the original sentence, restoration
5 of authorized institutional time credits or the application of authorized
6 institutional time credits on a future eligibility date established
7 pursuant to subsection a. of section 12 of P.L.1979, c.441 (C.30:4-
8 123.56) or subsection a. of section 20 of P.L.1979, c.441 (C.30:4-
9 123.64). The rules and regulations shall provide for the preparation
10 and review of a preparole report and shall require that a parole
11 consideration hearing be held not more than 120 days after the board
12 has received notice that an accelerated parole eligibility date has been
13 established.

14 (cf: P.L.1999, c.304, s.2)

15

16 5. Section 16 of P.L.1979, c.441 (C30:4-123.60) is amended to
17 read as follows:

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

24 b. Any parolee who has seriously or persistently violated the
25 conditions of his parole, may have his parole revoked and may be
26 returned to custody pursuant to sections 18 and 19 of P.L.1979, c.441
27 (C.30:4-123.62 and 30:4-123.63). The board shall be notified
28 immediately upon the arrest or indictment of a parolee or upon the
29 filing of charges that the parolee committed an act which, if committed
30 by an adult, would constitute a crime. The board shall not revoke
31 parole on the basis of new charges which have not resulted in a
32 disposition at the trial level except that upon application by the
33 prosecuting authority, the Juvenile Justice Commission established
34 pursuant to section 2 of P.L.1995, c.284 (C.52:17B-170) or the
35 Director of the State Parole Board's Division of Parole ³or his
36 designee³, the chairman of the board or his designee may at any time
37 detain the parolee and commence revocation proceedings pursuant to
38 sections 18 and 19 of P.L.1979, c.441 (C.30:4-123.62 and
39 30:4-123.63) when the chairman determines that the new charges
40 against the parolee are of a serious nature and it appears that the
41 parolee otherwise poses a danger to the public safety. In such cases,
42 a parolee shall be informed that, if he testifies at the revocation
43 proceedings, his testimony and the evidence derived therefrom shall
44 not be used against him in a subsequent criminal prosecution or
45 delinquency adjudication.

46 c. Any parolee who is convicted of a crime or adjudicated

1 delinquent for an act which, if committed by an adult, would constitute
2 a crime, committed while on parole shall have his parole revoked and
3 shall be returned to custody unless the parolee demonstrates, by clear
4 and convincing evidence at a hearing pursuant to section 19 of
5 P.L.1979, c.441 (C.30:4-123.63), that good cause exists why he
6 should not be returned to confinement.
7 (cf: P.L.2001, c.79, s.11)

8
9 ³[²5.] 6.³ There is appropriated from the General Fund to the
10 Department of Corrections for the State Parole Board \$685,000 to
11 effectuate the purposes of this act. Of this amount, \$462,000 shall be
12 used for the salaries of four additional board members and two
13 administrative assistants, \$115,500 for employee benefits and \$90,000
14 for equipment and administrative costs.²

15
16 ³[²[5.] 6.²] 7.³ This act shall take effect ³[on the first day of the
17 fourth month after enactment] immediately³.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

[Third Reprint]

ASSEMBLY, No. 3092

STATE OF NEW JERSEY

DATED: JUNE 25, 2001

The Senate Budget and Appropriations Committee reports favorably Assembly Bill No. 3092 (3R).

This bill addresses the recent backlog in parole eligibility hearings faced by the Parole Board and seeks to prevent a recurrence of this problem by making various changes to the "Parole Act of 1979," P.L.1979, c.441 (C.30:4-123.45 et seq.).

Unfilled vacancies on the Parole Board and a deluge of inmates eligible for parole hearings caused serious delays in granting parole hearings, as a result of which a class action civil rights lawsuit was filed on behalf of inmates with overdue hearings. A settlement proposed by the Attorney General resulted in the State paying fines, which were forwarded to a prisoners' advocacy group on behalf of incarcerated inmates who had not received timely parole hearings.

Specifically, this bill:

- C Increases the number of associate members of the parole board from 10 to 14 and the number of alternate members from one to three. In conjunction with the increase in the number of alternate members, the bill deletes from the law a provision empowering the Governor to appoint a temporary substitute alternate member;
- C Provides that the vice-chairman will assume the duties of the chairman when the chairman is unavailable or unable to perform his duties and that an alternate board member will assume the duties of an associate member under the same conditions or when the associate member assumes the duties of the chairman;
- C Permits the Governor to appoint a qualified person to assume the duties of any member when that member or an alternate member is absent, unavailable, or otherwise unable to perform the member's duties;
- C Permits the Governor to appoint up to four temporary acting parole board members for a term of three months. The chairman of the parole board must first certify that additional panels are needed temporarily to process parole decisions. Those appointees must be qualified with training or experience in law, sociology, criminal justice, juvenile justice or related branches of the social sciences. The Governor may extend a temporary member's term

for an additional three months if needed. Temporary acting members are authorized to participate in administrative review of initial parole hearing decisions, parole consideration hearings and determinations concerning revocation or rescission of parole;

- C Increases the number of panels on adult sentences from three to six, permits the chairman to assign a temporary acting member to a panel, and eliminates a permanent panel on young adult sentences;
- C Accords the parole board chairman plenary authority within the board to call board meetings, appoint staff, organize and direct the work of the board, and prepare the board's budget;
- C Provides that the board's annual report may include relevant information on compliance with established time frames in processing parole eligibility determinations, the effectiveness of any pertinent legislative or administrative measures, and recommendations to enhance board operations or to effectuate the purposes of the "Parole Act of 1979;" and
- C Permits the board to promulgate rules and regulations for the processing of any inmate whose parole eligibility date is "accelerated," as defined in the bill to be beyond the control of the board such as within 120 days of the sentencing, additional credit or institutional time credits, and provides that the board may modify the time periods for submitting the required reports in processing such inmates.

The provisions of this bill are identical to those of Senate Bill No. 2255 (1R), which the committee also reports this day.

FISCAL IMPACT

The bill appropriates from the General Fund to the State Parole Board the sum of \$685,000, which is estimated to cover the first-year cost for the four additional associate members of the board and two administrative assistants, employee benefits, and equipment and administrative costs. The appropriation does not appear to cover the two additional alternate members and any administrative costs arising in connection with their service.

SENATE, No. 2255

STATE OF NEW JERSEY 209th LEGISLATURE

INTRODUCED MARCH 29, 2001

Sponsored by:

Senator LOUIS F. KOSCO

District 38 (Bergen)

Senator WILLIAM L. GORMLEY

District 2 (Atlantic)

Co-Sponsored by:

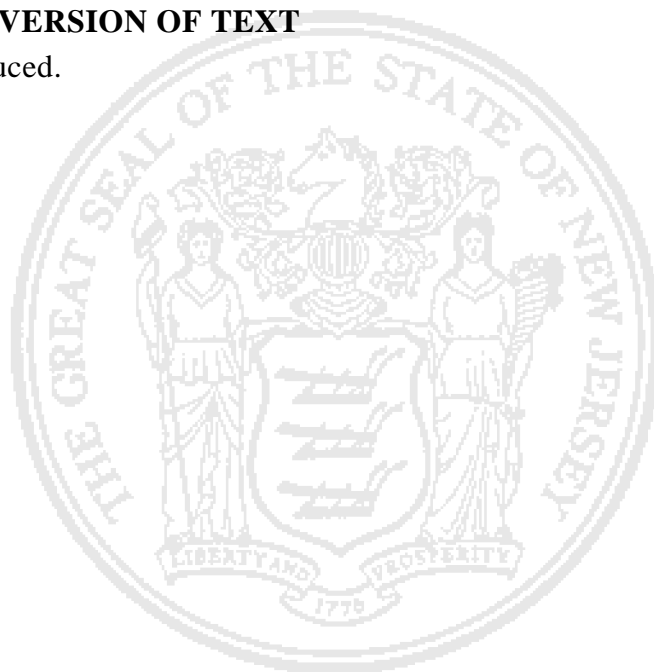
Senators Allen, Bucco, Cafiero, Robertson, Sinagra, Matheussen and Palaia

SYNOPSIS

Increases membership of parole board; provides for appointment of temporary members, accelerates processing of certain inmates' cases and appropriates \$685,000.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 3/30/2001)

S2255 KOSCO, GORMLEY

2

1 AN ACT concerning the parole board, amending P.L.1979, c.441 and
2 making an appropriation.

3

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

6

7 1. Section 3 of P.L.1979, c.441 (C.30:4-123.47) is amended to
8 read as follows:

9 3. a. There is hereby created and established within the
10 Department of Corrections a State Parole Board which shall consist of
11 a chairman, **[10] 14** associate members and one alternate board
12 member. The chairman, associate members and alternate board
13 member shall be appointed by the Governor with the advice and
14 consent of the Senate from qualified persons with training or
15 experience in law, sociology, criminal justice, juvenile justice or
16 related branches of the social sciences. Members of the board and the
17 alternate board member shall be appointed for terms of six years and
18 the terms of their successors shall be calculated from the expiration of
19 the incumbent's term. Members shall serve until their successors are
20 appointed and have qualified.

21 The Governor shall designate a vice-chairman from among the
22 associate members. The vice-chairman shall assume the duties of the
23 chairman when the chairman is absent, unavailable or otherwise
24 **[incapable of performing] unable to perform** his duties, or, in the case
25 of removal or a permanent incapacity, until the qualification of a
26 successor chairman appointed by the Governor.

27 The alternate board member may assume the duties of an associate
28 member when the associate member is absent, unavailable or otherwise
29 unable to perform his duties, or the associate member assumes the
30 duties of the chairman, and shall perform those duties only until the
31 associate resumes his duties, or, in the case of removal or a permanent
32 incapacity, the qualification of a successor appointed by the Governor.

33 b. (1) Any vacancy occurring in the membership of the board,
34 otherwise than by expiration of term, shall be filled in the same manner
35 as one occurring by expiration of term, but for the unexpired term
36 only. In the event that any member of the board **[shall be rendered**
37 **incapable of performing] is absent, unavailable or otherwise unable to**
38 **perform** his duties and the alternate board member is incapable of
39 performing that associate's duties, either because the alternate board
40 member has assumed the duties of another associate or is absent,
41 unavailable or otherwise [rendered incapable of performing] unable
42 to perform the associate's duties, the Governor shall appoint 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 qualified person to act in ~~his~~ the alternate board member's stead
2 during the period of ~~his~~ the alternate's incapacity. Any member of
3 the board, including the alternate board member, may be removed
4 from office by the Governor for cause.

5 (2) Upon certification of the chairman that additional parole panels
6 are needed on a temporary basis for the efficient processing of parole
7 decisions, the Governor also may appoint not more than four
8 temporary acting parole board members from qualified persons with
9 training or experience in law, sociology, criminal justice, juvenile
10 justice or related branches of the social sciences. A temporary acting
11 member shall be appointed for a term of three months. The Governor
12 may extend the appointment of any or all of the temporary acting
13 members for additional terms of three months, upon certification of the
14 chairman that additional parole panels are needed on a temporary basis
15 for the efficient processing of parole decisions. A temporary acting
16 member shall be authorized to participate in administrative review of
17 initial parole hearing decisions, parole consideration hearings and
18 determinations concerning revocation or rescission of parole.

19 c. The members of the board shall devote their full time to the
20 performance of their duties and be compensated pursuant to section 2
21 of P.L.1974, c.55 (C.52:14-15.108). The alternate member and any
22 temporary acting members shall be entitled to compensation. The
23 amount of such compensation shall be determined by multiplying the
24 rate an associate member would be paid on a per diem basis times the
25 number of days the alternate board member or temporary acting
26 member actually performed the duties of an associate member in
27 accordance with the provisions of this section.

28 d. At the time of appointment, the Governor shall designate two
29 associate members of the board to serve on a panel on juvenile
30 commitments. The remaining ~~eight~~ 12 associate members of the
31 board shall be appointed by the Governor to panels on adult sentences
32 ~~]. The]~~ and assigned by the chairman of the board ~~[shall assign six of~~
33 ~~the associate members so appointed]~~ to [three]six panels on ~~[prison]~~
34 adult sentences ~~], and the remaining two associate members so~~
35 ~~appointed to a panel on young adult sentences]~~. The chairman of the
36 board shall be a member of each panel. Nothing provided herein shall
37 prohibit the chairman from reassigning any member appointed to a
38 panel on adult sentences to facilitate the efficient function of the
39 board. Nothing provided herein shall prohibit the chairman from
40 temporarily reassigning any member appointed to a panel on juvenile
41 commitments to a panel on adult sentences ~~[either as a member of a~~
42 ~~panel on prison sentences]~~ or a panel on young adult sentences to
43 facilitate the efficient function of the board. The alternate board
44 member may assume, in accordance with the provisions of this section,
45 the duties of any associate member, regardless of whether that

1 associate member serves on a panel on juvenile commitments or panels
2 on adult sentences [either as a member of a panel on prison sentences
3 or a panel on young adult sentences.] The chairman may assign a
4 temporary acting member to a panel on adult sentences or juvenile
5 commitments.
6 (cf: P.L.1999, c.139, s.1)

7
8 2. Section 4 of P.L.1979, c.441 (C.30:4-123.48) is amended to
9 read as follows:

10 4. a. All policies and determinations of the Parole Board shall be
11 made by the majority vote of the members.

12 b. Except where otherwise noted, parole determinations on
13 individual cases pursuant to this act shall be made by the majority vote
14 of a quorum of the appropriate board panel established pursuant to this
15 section.

16 c. The chairman of the board shall be the chief executive officer of
17 the board and, after consulting with the board, shall be responsible for
18 designating the time and place of all board meetings, for appointing the
19 board's employees, for organizing, controlling and directing the work
20 of the board and its employees, and for preparation and justification of
21 the board's budget. The nonsecretarial professional and supervisory
22 employees of the board such as, but not limited to, hearing officers,
23 shall serve at the pleasure of the chairman and shall not be subject to
24 the provisions of Title 11 of the Revised Statutes. Nothing contained
25 herein shall be deemed to affect the employees of the Department of
26 Corrections, such as parole officers assigned to supervise parolees.

27 d. The board shall promulgate such reasonable rules and
28 regulations, consistent with this act, as may be necessary for the
29 proper discharge of its responsibilities. The chairman shall file such
30 rules and regulations with the Secretary of State. The provisions of
31 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
32 seq.) shall apply to the promulgation of rules and regulations
33 concerning policy and administration, but not to other actions taken
34 under this act, such as parole hearings, parole revocation hearings and
35 review of parole cases. In determination of its rules and regulations
36 concerning policy and administration, the board shall consult the
37 Governor, the Commissioner of Corrections and the Juvenile Justice
38 Commission established pursuant to section 2 of P.L.1995, c.284
39 (C.52:17B-170).

40 e. The board, in conjunction with the Department of Corrections
41 and the Juvenile Justice Commission, shall develop a uniform
42 information system in order to closely monitor the parole process.
43 Such system shall include participation in the Uniform Parole Reports
44 of the National Council on Crime and Delinquency.

45 f. The board shall transmit a report of its work for the preceding
46 fiscal year, including information on the causes and extent of parole

1 recidivism, to the Governor, the Legislature and the Juvenile Justice
2 Commission annually. The report also may include relevant
3 information on compliance with established time frames in the
4 processing of parole eligibility determinations, the effectiveness of any
5 pertinent legislative or administrative measures, and any
6 recommendations to enhance board operations or to effectuate the
7 purposes of the "Parole Act of 1979," P.L.1979, c.441
8 (C.30:4-123.45 et seq.).

9 g. The board shall give public notice prior to considering any adult
10 inmate for release.

11 h. The board shall give notice to the appropriate prosecutor's office
12 and to the committing court prior to the initial consideration of any
13 juvenile inmate for release.

14 (cf: P.L.1995, c.280, s.35)

15

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

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

23 b. (1) The report filed pursuant to subsection a. shall contain
24 preincarceration records of the inmate, including any history of civil
25 commitment, any disposition which arose out of any charges
26 suspended pursuant to N.J.S.2C:4-6 including records of the
27 disposition of those charges and any acquittals by reason of insanity
28 pursuant to N.J.S.2C:4-1, state the conduct of the inmate during the
29 current period of confinement, include a complete report on the
30 inmate's social and physical condition, include an investigation by the
31 Bureau of Parole of the inmate's parole plans, and present information
32 bearing upon the likelihood that the inmate will commit a crime under
33 the laws of this State if released on parole. The report shall also
34 include a complete psychological evaluation of the inmate in any case
35 in which the inmate was convicted of a first or second degree crime
36 involving violence and:

37 (a) the inmate has a prior acquittal by reason of insanity pursuant
38 to N.J.S.2C:4-1 or had charges suspended pursuant to N.J.S.2C:4-6;
39 or

40 (b) the inmate has a prior conviction for murder pursuant to
41 N.J.S.2C:11-3, aggravated sexual assault or sexual assault pursuant to
42 N.J.S.2C:14-2, kidnapping pursuant to N.J.S.2C:13-1, endangering the
43 welfare of a child which would constitute a crime of the second degree
44 pursuant to N.J.S.2C:24-4, or stalking which would constitute a crime
45 of the third degree pursuant to P.L.1992, c.209 (C.2C:12-10); or

46 (c) the inmate has a prior diagnosis of psychosis.

1 The inmate shall disclose any information concerning any history of
2 civil commitment.

3 The preincarceration records of the inmate contained in the report
4 shall include any psychological reports prepared in connection with
5 any court proceedings.

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 written or videotaped statement for the parole report to be considered
10 at the parole hearing or to testify to the parole board concerning his
11 harm at the time of the parole hearing. Each victim or relative shall be
12 responsible for notifying the board of his intention to submit such a
13 statement and to provide an appropriate mailing address.

14 The report may include a written or videotaped statement
15 concerning the continuing nature and extent of any physical harm or
16 psychological or emotional harm or trauma suffered by the victim, the
17 extent of any loss of earnings or ability to work suffered by the victim
18 and the continuing effect of the crime upon the victim's family. At the
19 time public notice is given that an inmate is being considered for
20 parole pursuant to this section, the board shall also notify any victim
21 or nearest relative who has previously contacted the board of the
22 availability to provide a written or videotaped statement for inclusion
23 in the parole report or to present testimony at 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 f. Notwithstanding any provision of this section, the board may
12 modify the time periods for submitting the reports required pursuant
13 to this section in processing an inmate whose parole eligibility date is
14 accelerated pursuant to section 11 of P.L.1979, c.441 (C.30:4-
15 123.55).

16 (cf: P.L.1999, c.304, s.1)

17

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

20 11. a. Prior to the parole eligibility date of each adult inmate, a
21 designated hearing officer shall review the reports required by section
22 10 of P.L.1979, c.441 (C.30:4-123.54), and shall determine whether
23 there is a basis for denial of parole in the preparole report, any risk
24 assessment prepared in accordance with the provisions of subsection
25 e. of section 8 of P.L.1979, c.441 (C.30:4-123.52), or the inmate's
26 statement, or an indication, reduced to writing, that additional
27 information providing a basis for denial of parole would be developed
28 or produced at a hearing. If the hearing officer determines that there
29 is no basis in the preparole report, the risk assessment, or the inmate's
30 statement for denial of parole and that there is no additional relevant
31 information to be developed or produced at a hearing, he shall at least
32 60 days prior to the inmate's parole eligibility date recommend in
33 writing to the assigned member of the board panel that parole release
34 be granted.

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

1 concur in a recommendation of the designated hearing officer in favor
2 of release, then the parole release of an inmate in a county penal
3 institution shall be treated under the provisions of law otherwise
4 applicable to an adult inmate. In the case of an inmate sentenced to a
5 county penal institution, the performance of public service for the
6 remainder of the term of the sentence shall be a required condition of
7 parole, where 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 or videotaped statements at the hearing. Said hearing
19 shall be conducted by the appropriate board panel at least 30 days
20 prior to the eligibility date. At the hearing, which shall be informal,
21 the board panel shall receive as evidence any relevant and reliable
22 documents or videotaped or in person testimony, including that of the
23 victim of the crime or the members of the family of a murder victim if
24 the victim or a family member so desires. If a victim of a crime or the
25 relative of a murder victim chooses not to testify personally at the
26 hearing, the victim or relative may elect to present testimony to a
27 senior hearing officer designated by the board panel. The senior
28 hearing officer shall notify the victim of the right to have this
29 testimony videotaped. The senior hearing officer shall prepare a
30 report, transcript or videotape, if applicable, of the testimony for
31 presentation to the board panel at the hearing. All such evidence not
32 classified as confidential pursuant to rules and regulations of the board
33 or the Department of Corrections shall be disclosed to the inmate and
34 the inmate shall be permitted to rebut such evidence and to present
35 evidence on his own behalf. The decision of the board panel shall be
36 based solely on the evidence presented at the hearing.

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

1 e. Upon request by the hearing officer or the inmate, the time
2 limitations contained in section 10 of P.L.1979, c.441 (C.30:4-123.54)
3 and this section may be waived by the appropriate board panel for
4 good cause.

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

16 g. Notwithstanding the provision of any other law or regulation to
17 the contrary, the board may promulgate rules and regulations for the
18 processing of any inmate whose parole eligibility date is accelerated.
19 For purposes of this section, a parole eligibility date is accelerated
20 when an inmate becomes eligible for parole at the time of or within
21 120 days of an event or circumstance beyond the control of the parole
22 board, such as sentencing, resentencing or other amendment, including
23 the awarding of additional credit to the original sentence, restoration
24 of authorized institutional time credits or the application of authorized
25 institutional time credits on a future eligibility date established
26 pursuant to subsection a. of section 12 of P.L.1979, c.441 (C.30:4-
27 123.56) or subsection a. of section 20 of P.L.1979, c.441 (C.30:4-
28 123.64). The rules and regulations shall provide for the preparation
29 and review of a preparole report and shall require that a parole
30 consideration hearing be held not more than 120 days after the board
31 has received notice that an accelerated parole eligibility date has been
32 established.

33 (cf: P.L.1999, c.304, s.2)

34
35 5. There is appropriated from the General Fund to the Department
36 of Corrections for the State Parole Board \$685,000 to effectuate the
37 purposes of this act. Of this amount, \$462,000 shall be used for the
38 salaries of four additional board members and two administrative
39 assistants, \$115,500 for employee benefits and \$90,000 for equipment
40 and administrative costs.

41
42 6. This act shall take effect on the first day of the fourth month
43 after enactment.

STATEMENT

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This bill is intended to address the recent backlog in parole eligibility hearings faced by the Parole Board and prevent a future reoccurrence of this problem by making various changes to the "Parole Act of 1979," P.L.1979, c.441 (C.30:4-123.45 et seq.).

Unfilled vacancies on the Parole Board and a deluge of inmates eligible for parole hearings caused serious delays in granting parole hearings, whereby a class action civil rights lawsuit was filed on behalf of inmates with overdue hearings. A settlement proposed by the Attorney General resulted in the State paying fines which were forwarded to a prisoners' advocacy group on behalf of incarcerated inmates who had not received timely parole hearings.

Specifically, this bill:

- C Increases the number of associate members of the parole board from 10 to 14;
- C Provides that the vice-chairman will assume the duties of the chairman when the chairman is unavailable or unable to perform his duties and that an alternate board member will assume the duties of an associate member under the same conditions or when the associate member assumes the duties of the chairman;
- C Permits the Governor to appoint a qualified person to assume the duties of any member when that member or an alternate member is absent, unavailable, or otherwise unable to perform the member's duties;
- C Permits the Governor to appoint up to four temporary acting parole board members for a term of three months. The chairman of the parole board must first certify that additional panels are needed temporarily to process parole decisions. Those appointees must be qualified with training or experience in law, sociology, criminal justice, juvenile justice or related branches of the social sciences. The Governor may extend a temporary member's term for an additional three months if needed. Temporary acting members are authorized to participate in administrative review of initial parole hearing decisions, parole consideration hearings and determinations concerning revocation or rescission of parole;
- C Increases the number of panels on adult sentences from three to six, permits the chairman to assign a temporary acting member to a panel, and eliminates a permanent panel on young adult sentences;
- C Provides that the board's annual report may include relevant information on compliance with established time frames in processing parole eligibility determinations, the effectiveness of any pertinent legislative or administrative measures, and recommendations to enhance board operations or to effectuate the purposes of the "Parole Act of 1979;" and
- C Permits the board to promulgate rules and regulations for the

S2255 KOSCO, GORMLEY

11

1 processing of any inmate whose parole eligibility date is
2 "accelerated," as defined in the bill to be beyond the control of the
3 board such as within 120 days of the sentencing, additional credit
4 or institutional time credits, and provides that the board may modify
5 the time periods for submitting the required reports in processing
6 such inmates.

7 The bill appropriates \$685,000 to the Department of Corrections
8 for use by the Parole Board in carrying out the provisions of the bill.
9 Of this amount, \$462,000 would be used for the salaries of four
10 additional board members and two staff assistants, \$115,500 for
11 employee benefits and \$90,000 for equipment and administrative costs.

FISCAL NOTE
SENATE, No. 2255
STATE OF NEW JERSEY
209th LEGISLATURE

DATED: JULY 18, 2001

SUMMARY

Synopsis: Increases membership of parole board; provides for appointment of temporary members and accelerates processing of certain inmates' cases.

Type of Impact: General Fund expenditure.

Agencies Affected: State Parole Board, Department of Corrections (DOC).

Executive Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Cost	\$663,000	\$573,000	\$573,000

- ! The Office of Legislative Services (OLS) **concurs** with the Executive estimate.
- ! The bill increases the number of associate members of the parole board from 10 to 14. The bill also provides for the appointment of up to four temporary acting parole board members for a term of three months when needed. In addition, it increases the number of panels on adult sentences from three to six, and permits the chairman to assign a temporary acting member to a panel.
- ! The State Parole Board states that the two additional panels created by the bill would be staffed by an administrative assistant and two parole board members each. At a current salary of \$98,000 per parole board member and \$35,000 per administrative assistant, the total salary expense of the bill would be \$462,000. Fringe benefits costs would add \$111,000, for a total salary and fringe benefits cost of \$573,000. Vehicle and equipment cost would add a one-time cost of \$90,000 to the program.

BILL DESCRIPTION

Senate Bill No. 2255 of 2001 increases the number of associate members of the parole board from 10 to 14. The bill also provides for the appointment of up to four temporary acting parole board members for a term of three months when needed. In addition, it increases the number of panels on adult sentences from three to six, and permits the chairman to assign a temporary acting member to a panel.

FISCAL ANALYSIS

EXECUTIVE BRANCH

The State Parole Board states that the two additional panels created by the bill would be staffed by an administrative assistant and two parole board members each. At a current salary of \$98,000 per parole board member and \$35,000 per administrative assistant, the total salary expense of the bill would be \$462,000. Fringe benefits costs would add \$111,000, for a total salary and fringe benefits cost of \$573,000. The Parole Board notes that it would be necessary to provide two vehicles and office equipment for each panel, for a one-time cost of \$90,000 and a total first-year cost of \$663,000. Future year costs would decline as a result of the elimination of the one-time costs.

OFFICE OF LEGISLATIVE SERVICES

The Office of Legislative Services concurs with the Executive estimate.

Section: *Judiciary*

Analyst: *Anne C. Raughley*
Lead Fiscal Analyst

Approved: *Alan R. Kooney*
Legislative Budget and Finance Officer

This fiscal note has been prepared pursuant to P.L.1980, c.67.

[First Reprint]

SENATE, No. 2255

STATE OF NEW JERSEY
209th LEGISLATURE

INTRODUCED MARCH 29, 2001

Sponsored by:

Senator LOUIS F. KOSCO

District 38 (Bergen)

Senator WILLIAM L. GORMLEY

District 2 (Atlantic)

Co-Sponsored by:

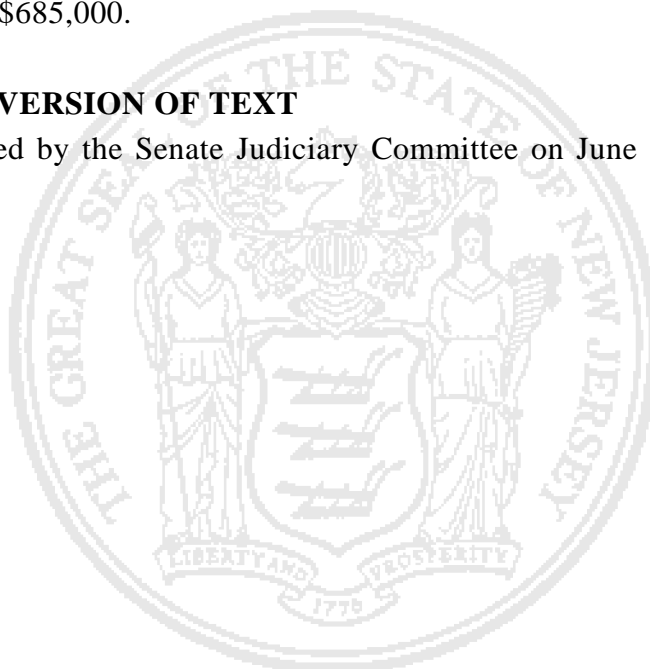
**Senators Allen, Bucco, Cafiero, Robertson, Sinagra, Matheussen and
Palaia**

SYNOPSIS

Increases membership of parole board; provides for appointment of temporary members, accelerates processing of certain inmates' cases and appropriates \$685,000.

CURRENT VERSION OF TEXT

As reported by the Senate Judiciary Committee on June 25, 2001, with amendments.



(Sponsorship Updated As Of: 3/30/2001)

1 AN ACT concerning the parole board, amending P.L.1979, c.441 and
2 making an appropriation.

3
4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6
7 1. Section 3 of P.L.1979, c.441 (C.30:4-123.47) is amended to
8 read as follows:

9 3. a. There is hereby created and established within the
10 Department of Corrections a State Parole Board which shall consist of
11 a chairman, ~~[10] 14~~ associate members and ¹~~[one]~~ three¹ alternate
12 board ¹~~[member]~~ members¹. The chairman, associate members and
13 alternate board member shall be appointed by the Governor with the
14 advice and consent of the Senate from qualified persons with training
15 or experience in law, sociology, criminal justice, juvenile justice or
16 related branches of the social sciences. Members of the board and the
17 alternate board member shall be appointed for terms of six years and
18 the terms of their successors shall be calculated from the expiration of
19 the incumbent's term. Members shall serve until their successors are
20 appointed and have qualified.

21 The Governor shall designate a vice-chairman from among the
22 associate members. The vice-chairman shall assume the duties of the
23 chairman when the chairman is absent, unavailable or otherwise
24 ~~[incapable of performing]~~ unable to perform his duties, or, in the case
25 of removal or a permanent incapacity, until the qualification of a
26 successor chairman appointed by the Governor.

27 The alternate board member may assume the duties of an associate
28 member when the associate member is absent, unavailable or otherwise
29 unable to perform his duties, or the associate member assumes the
30 duties of the chairman, and shall perform those duties only until the
31 associate resumes his duties, or, in the case of removal or a permanent
32 incapacity, the qualification of a successor appointed by the Governor.

33 b. ~~(1)~~ Any vacancy occurring in the membership of the board,
34 otherwise than by expiration of term, shall be filled in the same manner
35 as one occurring by expiration of term, but for the unexpired term
36 only. ¹~~[In the event that any member of the board [shall be rendered~~
37 ~~incapable of performing]~~ is absent, unavailable or otherwise unable to
38 perform his duties and the alternate board member is incapable of
39 performing that associate's duties, either because the alternate board
40 member has assumed the duties of another associate or is absent,
41 unavailable or otherwise [rendered incapable of performing] unable

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 Assembly SJU committee amendments adopted June 25, 2001.

1 to perform the associate's duties, the Governor shall appoint a
2 qualified person to act in ~~his~~ the alternate board member's stead
3 during the period of ~~his~~ the alternate's incapacity.]¹ Any member
4 of the board, including ¹~~the~~ any¹ alternate board member, may be
5 removed from office by the Governor for cause.

6 (2) Upon certification of the chairman that additional parole panels
7 are needed on a temporary basis for the efficient processing of parole
8 decisions, the Governor also may appoint not more than four
9 temporary acting parole board members from qualified persons with
10 training or experience in law, sociology, criminal justice, juvenile
11 justice or related branches of the social sciences. A temporary acting
12 member shall be appointed for a term of three months. The Governor
13 may extend the appointment of any or all of the temporary acting
14 members for additional terms of three months, upon certification of the
15 chairman that additional parole panels are needed on a temporary basis
16 for the efficient processing of parole decisions. A temporary acting
17 member shall be authorized to participate in administrative review of
18 initial parole hearing decisions, parole consideration hearings and
19 determinations concerning revocation or rescission of parole.

20 c. The members of the board shall devote their full time to the
21 performance of their duties and be compensated pursuant to section 2
22 of P.L.1974, c.55 (C.52:14-15.108). ¹~~The~~ Any¹ alternate member
23 and any temporary acting members shall be entitled to compensation.
24 The amount of such compensation shall be determined by multiplying
25 the rate an associate member would be paid on a per diem basis times
26 the number of days the alternate board member or temporary acting
27 member actually performed the duties of an associate member in
28 accordance with the provisions of this section.

29 d. At the time of appointment, the Governor shall designate two
30 associate members of the board to serve on a panel on juvenile
31 commitments. The remaining ~~eight~~ 12 associate members of the
32 board shall be appointed by the Governor to panels on adult sentences
33 ~~]. The~~ and assigned by the chairman of the board ~~[shall assign six of~~
34 ~~the associate members so appointed]~~ to [three]six panels on ~~[prison]~~
35 adult sentences ~~[, and the remaining two associate members so~~
36 ~~appointed to a panel on young adult sentences]~~. The chairman of the
37 board shall be a member of each panel. Nothing provided herein shall
38 prohibit the chairman from reassigning any member appointed to a
39 panel on adult sentences to facilitate the efficient function of the
40 board. Nothing provided herein shall prohibit the chairman from
41 temporarily reassigning any member appointed to a panel on juvenile
42 commitments to a panel on adult sentences ~~[either as a member of a~~
43 ~~panel on prison sentences]~~ or a panel on young adult sentences to
44 facilitate the efficient function of the board. The alternate board
45 member may assume, in accordance with the provisions of this section,

1 the duties of any associate member, regardless of whether that
2 associate member serves on a panel on juvenile commitments or panels
3 on adult sentences [either as a member of a panel on prison sentences
4 or a panel on young adult sentences.] The chairman may assign a
5 temporary acting member to a panel on adult sentences or juvenile
6 commitments.

7 ¹e. Of the associate members first appointed to the four positions
8 created pursuant to the provisions of P.L. _____, c. _____ (now pending
9 before the Legislature as this bill), one shall be appointed for a term of
10 six years; one shall be appointed for a term of five years; one shall be
11 appointed for a term of four years and one shall be appointed for a
12 term of three years.¹
13 (cf: P.L.1999, c.139, s.1)

14
15 2. Section 4 of P.L.1979, c.441 (C.30:4-123.48) is amended to
16 read as follows:

17 4. a. All policies and determinations of the Parole Board shall be
18 made by the majority vote of the members.

19 b. Except where otherwise noted, parole determinations on
20 individual cases pursuant to this act shall be made by the majority vote
21 of a quorum of the appropriate board panel established pursuant to this
22 section.

23 c. The chairman of the board shall be the chief executive officer of
24 the board and after consulting with the board, shall be responsible for
25 designating the time and place of all board meetings, for appointing the
26 board's employees, for organizing, controlling and directing the work
27 of the board and its employees, and for preparation and justification of
28 the board's budget. ¹[The nonsecretarial professional and supervisory
29 employees of the board such as, but not limited to, hearing officers,
30 shall serve at the pleasure of the chairman and shall not be subject to
31 the provisions of Title 11 of the Revised Statutes. Nothing contained
32 herein shall be deemed to affect the employees of the Department of
33 Corrections, such as parole officers assigned to supervise parolees.]
34 Hearing officers and such other positions as are designated by the
35 Commissioner of the Department of Personnel shall serve at the
36 pleasure of the chairman and shall not be subject to the provisions of
37 Title 11A of the New Jersey Statutes. All other employees shall be in
38 the career service and subject to the provisions of Title 11A of the
39 New Jersey Statutes. All such career services employees who are
40 employed by the State Parole Board on September 5, 2001 shall have
41 permanent career service status with seniority awarded from the date
42 of their appointments. Parole officers assigned to supervise adult
43 parolees and all supervisory titles associated with the supervision of
44 adult parolees in the parole officer series shall be classified employees
45 subject to the provisions of Title 11A of the New Jersey Statutes.
46 Parole officers assigned to supervise adult parolees and all supervisory

1 titles associated with the supervision of adult parolees in the parole
2 officer job classification series shall be organizationally assigned to the
3 State Parole Board with a sworn member of the Division of Parole
4 appointed to act as director of parole supervision. The director of
5 parole supervision shall report directly to the Chairman of the State
6 Parole Board or to such person as the chairman may designate.¹

7 d. The board shall promulgate such reasonable rules and
8 regulations, consistent with this act, as may be necessary for the
9 proper discharge of its responsibilities. The chairman shall file such
10 rules and regulations with the Secretary of State. The provisions of
11 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
12 seq.) shall apply to the promulgation of rules and regulations
13 concerning policy and administration, but not to other actions taken
14 under this act, such as parole hearings, parole revocation hearings and
15 review of parole cases. In determination of its rules and regulations
16 concerning policy and administration, the board shall consult the
17 Governor, the Commissioner of Corrections and the Juvenile Justice
18 Commission established pursuant to section 2 of P.L.1995, c.284
19 (C.52:17B-170).

20 e. The board, in conjunction with the Department of Corrections
21 and the Juvenile Justice Commission, shall develop a uniform
22 information system in order to closely monitor the parole process.
23 Such system shall include participation in the Uniform Parole Reports
24 of the National Council on Crime and Delinquency.

25 f. The board shall transmit a report of its work for the preceding
26 fiscal year, including information on the causes and extent of parole
27 recidivism, to the Governor, the Legislature and the Juvenile Justice
28 Commission annually. The report also may include relevant
29 information on compliance with established time frames in the
30 processing of parole eligibility determinations, the effectiveness of any
31 pertinent legislative or administrative measures, and any
32 recommendations to enhance board operations or to effectuate the
33 purposes of the "Parole Act of 1979," P.L.1979, c.441
34 (C.30:4-123.45 et seq.).

35 g. The board shall give public notice prior to considering any adult
36 inmate for release.

37 h. The board shall give notice to the appropriate prosecutor's office
38 and to the committing court prior to the initial consideration of any
39 juvenile inmate for release.

40 (cf: P.L.1995, c.280, s.35)

41
42 3. Section 10 of P.L.1979, c.441 (C.30:4-123.54) is amended to
43 read as follows:

44 10. a. At least 120 days but not more than 180 days prior to the
45 parole eligibility date of each adult inmate, a report concerning the
46 inmate shall be filed with the appropriate board panel, by the staff

1 members designated by the superintendent or other chief executive
2 officer of the institution in which the inmate is held.

3 b. (1) The report filed pursuant to subsection a. shall contain
4 preincarceration records of the inmate, including any history of civil
5 commitment, any disposition which arose out of any charges
6 suspended pursuant to N.J.S.2C:4-6 including records of the
7 disposition of those charges and any acquittals by reason of insanity
8 pursuant to N.J.S.2C:4-1, state the conduct of the inmate during the
9 current period of confinement, include a complete report on the
10 inmate's social and physical condition, include an investigation by the
11 ¹[Bureau] Division¹ of Parole of the inmate's parole plans, and
12 present information bearing upon the likelihood that the inmate will
13 commit a crime under the laws of this State if released on parole. The
14 report shall also include a complete psychological evaluation of the
15 inmate in any case in which the inmate was convicted of a first or
16 second degree crime involving violence and:

17 (a) the inmate has a prior acquittal by reason of insanity pursuant
18 to N.J.S.2C:4-1 or had charges suspended pursuant to N.J.S.2C:4-6;
19 or

20 (b) the inmate has a prior conviction for murder pursuant to
21 N.J.S.2C:11-3, aggravated sexual assault or sexual assault pursuant to
22 N.J.S.2C:14-2, kidnapping pursuant to N.J.S.2C:13-1, endangering the
23 welfare of a child which would constitute a crime of the second degree
24 pursuant to N.J.S.2C:24-4, or stalking which would constitute a crime
25 of the third degree pursuant to P.L.1992, c.209 (C.2C:12-10); or

26 (c) the inmate has a prior diagnosis of psychosis.

27 The inmate shall disclose any information concerning any history of
28 civil commitment.

29 The preincarceration records of the inmate contained in the report
30 shall include any psychological reports prepared in connection with
31 any court proceedings.

32 (2) At the time of sentencing, the prosecutor shall notify any victim
33 injured as a result of a crime of the first or second degree or the
34 nearest relative of a murder victim of the opportunity to present a
35 written or videotaped statement for the parole report to be considered
36 at the parole hearing or to testify to the parole board concerning his
37 harm at the time of the parole hearing. Each victim or relative shall be
38 responsible for notifying the board of his intention to submit such a
39 statement and to provide an appropriate mailing address.

40 The report may include a written or videotaped statement
41 concerning the continuing nature and extent of any physical harm or
42 psychological or emotional harm or trauma suffered by the victim, the
43 extent of any loss of earnings or ability to work suffered by the victim
44 and the continuing effect of the crime upon the victim's family. At the
45 time public notice is given that an inmate is being considered for
46 parole pursuant to this section, the board shall also notify any victim

1 or nearest relative who has previously contacted the board of the
2 availability to provide a written or videotaped statement for inclusion
3 in the parole report or to present testimony at the parole hearing.

4 The board shall notify such person at his last known mailing
5 address.

6 c. A copy of the report filed pursuant to subsection a. of this
7 section, excepting those documents which have been classified as
8 confidential pursuant to rules and regulations of the board or the
9 Department of Corrections, shall be served on the inmate at the time
10 it is filed with the board panel. The inmate may file with the board
11 panel a written statement regarding the report, but shall do so within
12 105 days prior to the primary parole eligibility date.

13 d. Upon receipt of the public notice pursuant to section 1 of
14 P.L.1979, c.441 (C.30:4-123.45), a county prosecutor may request
15 from the parole board a copy of the report on any adult inmate
16 prepared pursuant to subsection a. of this section, which shall be
17 expeditiously forwarded to the county prosecutor by the parole board
18 by mail, courier, or other means of delivery. Upon receipt of the
19 report, the prosecutor has 10 working days to review the report and
20 notify the parole board of the prosecutor's comments, if any, or notify
21 the parole board of the prosecutor's intent to provide comments. If
22 the county prosecutor does not provide comments or notify the parole
23 board of the prosecutor's intent to provide comments within the 10
24 working days, the parole board may presume that the prosecutor does
25 not wish to provide comments and may proceed with the parole
26 consideration. Any comments provided by a county prosecutor shall
27 be delivered to the parole board by the same method by which the
28 county prosecutor received the report. The confidentiality of the
29 contents in a report which are classified as confidential shall be
30 maintained and shall not be disclosed to any person who is not
31 authorized to receive or review a copy of the report containing the
32 confidential information.

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

37 f. Notwithstanding any provision of this section, the board may
38 modify the time periods for submitting the reports required pursuant
39 to this section in processing an inmate whose parole eligibility date is
40 accelerated pursuant to section 11 of P.L.1979, c.441 (C.30:4-
41 123.55).

42 (cf: P.L.1999, c.304, s.1)

43

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

46 11. a. Prior to the parole eligibility date of each adult inmate, a

1 designated hearing officer shall review the reports required by section
2 10 of P.L.1979, c.441 (C.30:4-123.54), and shall determine whether
3 there is a basis for denial of parole in the preparole report, any risk
4 assessment prepared in accordance with the provisions of subsection
5 e. of section 8 of P.L.1979, c.441 (C.30:4-123.52), or the inmate's
6 statement, or an indication, reduced to writing, that additional
7 information providing a basis for denial of parole would be developed
8 or produced at a hearing. If the hearing officer determines that there
9 is no basis in the preparole report, the risk assessment, or the inmate's
10 statement for denial of parole and that there is no additional relevant
11 information to be developed or produced at a hearing, he shall at least
12 60 days prior to the inmate's parole eligibility date recommend in
13 writing to the assigned member of the board panel that parole release
14 be granted.

15 b. If the assigned member of the board panel or in the case of an
16 inmate sentenced to a county penal institution, the assigned member
17 concurs in the hearing officer's recommendation, he shall certify parole
18 release pursuant to section 15 of P.L.1979, c.441 (C.30:4-123.59) as
19 soon as practicable after the eligibility date and so notify the inmate
20 and the board. In the case of an inmate sentenced to a county penal
21 institution the board shall certify parole release or deny parole as
22 provided by this section, except with regard to time periods for notice
23 and parole processing which are authorized by or otherwise adopted
24 pursuant to subsection g. of section 7 of P.L.1979, c.441
25 (C.30:4-123.51). If the designated hearing officer does not
26 recommend release on parole or if the assigned member does not
27 concur in a recommendation of the designated hearing officer in favor
28 of release, then the parole release of an inmate in a county penal
29 institution shall be treated under the provisions of law otherwise
30 applicable to an adult inmate. In the case of an inmate sentenced to a
31 county penal institution, the performance of public service for the
32 remainder of the term of the sentence shall be a required condition of
33 parole, where appropriate.

34 c. If the hearing officer or the assigned member determines that
35 there is a basis for denial of parole, or that a hearing is otherwise
36 necessary, the hearing officer or assigned member shall notify the
37 appropriate board panel and the inmate in writing of his determination,
38 and of a date for a parole consideration hearing. The board panel shall
39 notify the victim of the crime, if the crime for which the inmate is
40 incarcerated was a crime of the first or second degree, or the victim's
41 nearest relative if the crime was murder, as appropriate, who was
42 previously contacted by the board and who has indicated his intention
43 to the board to testify at the hearing, of the opportunity to testify or
44 submit written or videotaped statements at the hearing. Said hearing
45 shall be conducted by the appropriate board panel at least 30 days
46 prior to the eligibility date. At the hearing, which shall be informal,

1 the board panel shall receive as evidence any relevant and reliable
2 documents or videotaped or in person testimony, including that of the
3 victim of the crime or the members of the family of a murder victim if
4 the victim or a family member so desires. If a victim of a crime or the
5 relative of a murder victim chooses not to testify personally at the
6 hearing, the victim or relative may elect to present testimony to a
7 senior hearing officer designated by the board panel. The senior
8 hearing officer shall notify the victim of the right to have this
9 testimony videotaped. The senior hearing officer shall prepare a
10 report, transcript or videotape, if applicable, of the testimony for
11 presentation to the board panel at the hearing. All such evidence not
12 classified as confidential pursuant to rules and regulations of the board
13 or the Department of Corrections shall be disclosed to the inmate and
14 the inmate shall be permitted to rebut such evidence and to present
15 evidence on his own behalf. The decision of the board panel shall be
16 based solely on the evidence presented at the hearing.

17 d. At the conclusion of the parole consideration hearing, the board
18 panel shall either (1) certify the parole release of the inmate pursuant
19 to section 15 of this act as soon as practicable after the eligibility date
20 and so notify the inmate and the board, or (2) deny parole and file with
21 the board within 30 days of the hearing a statement setting forth the
22 decision, the particular reasons therefor, except information classified
23 as confidential pursuant to rules and regulations of the board or the
24 Department of Corrections, a copy of which statement shall be served
25 upon the inmate together with notice of his right to appeal to the
26 board.

27 e. Upon request by the hearing officer or the inmate, the time
28 limitations contained in section 10 of P.L.1979, c.441 (C.30:4-123.54)
29 and this section may be waived by the appropriate board panel for
30 good cause.

31 f. Notwithstanding the provision of any other law to the contrary,
32 if an inmate incarcerated for murder is recommended for parole by the
33 assigned board member or the appropriate board panel, parole shall
34 not be certified until a majority of the full parole board, after
35 conducting a hearing, concurs in that recommendation. The board
36 shall notify the victim's family of that hearing and family members shall
37 be afforded the opportunity to testify in person or to submit written or
38 videotaped statements. The provisions of this subsection shall not
39 apply to an inmate who has his parole revoked and is returned to
40 custody pursuant to the provisions of section 19 of P.L.1979, c.441
41 (C.30:4-123.63).

42 g. Notwithstanding the provision of any other law or regulation to
43 the contrary, the board may promulgate rules and regulations for the
44 processing of any inmate whose parole eligibility date is accelerated.
45 For purposes of this section, a parole eligibility date is accelerated
46 when an inmate becomes eligible for parole at the time of or within

1 120 days of an event or circumstance beyond the control of the parole
2 board, such as sentencing, resentencing or other amendment, including
3 the awarding of additional credit to the original sentence, restoration
4 of authorized institutional time credits or the application of authorized
5 institutional time credits on a future eligibility date established
6 pursuant to subsection a. of section 12 of P.L.1979, c.441 (C.30:4-
7 123.56) or subsection a. of section 20 of P.L.1979, c.441 (C.30:4-
8 123.64). The rules and regulations shall provide for the preparation
9 and review of a preparole report and shall require that a parole
10 consideration hearing be held not more than 120 days after the board
11 has received notice that an accelerated parole eligibility date has been
12 established.

13 (cf: P.L.1999, c.304, s.2)

14

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

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

23 b. Any parolee who has seriously or persistently violated the
24 conditions of his parole, may have his parole revoked and may be
25 returned to custody pursuant to sections 18 and 19 of P.L.1979, c.441
26 (C.30:4-123.62 and 30:4-123.63). The board shall be notified
27 immediately upon the arrest or indictment of a parolee or upon the
28 filing of charges that the parolee committed an act which, if committed
29 by an adult, would constitute a crime. The board shall not revoke
30 parole on the basis of new charges which have not resulted in a
31 disposition at the trial level except that upon application by the
32 prosecuting authority, the Juvenile Justice Commission established
33 pursuant to section 2 of P.L.1995, c.284 (C.52:17B-170) or the
34 Director of the State Parole Board's Division of Parole ¹or his
35 designee¹, the chairman of the board or his designee may at any time
36 detain the parolee and commence revocation proceedings pursuant to
37 sections 18 and 19 of P.L.1979, c.441 (C.30:4-123.62 and
38 30:4-123.63) when the chairman determines that the new charges
39 against the parolee are of a serious nature and it appears that the
40 parolee otherwise poses a danger to the public safety. In such cases,
41 a parolee shall be informed that, if he testifies at the revocation
42 proceedings, his testimony and the evidence derived therefrom shall
43 not be used against him in a subsequent criminal prosecution or
44 delinquency adjudication.

45 c. Any parolee who is convicted of a crime or adjudicated
46 delinquent for an act which, if committed by an adult, would constitute

1 a crime, committed while on parole shall have his parole revoked and
2 shall be returned to custody unless the parolee demonstrates, by clear
3 and convincing evidence at a hearing pursuant to section 19 of
4 P.L.1979, c.441 (C.30:4-123.63), that good cause exists why he
5 should not be returned to confinement.
6 (cf: P.L. 2001, c.79, s.11).

7

8 ¹[5.] 6.¹ There is appropriated from the General Fund to the
9 Department of Corrections for the State Parole Board \$685,000 to
10 effectuate the purposes of this act. Of this amount, \$462,000 shall be
11 used for the salaries of four additional board members and two
12 administrative assistants, \$115,500 for employee benefits and \$90,000
13 for equipment and administrative costs.

14

15 ¹[6.]7.¹ This act shall take effect ¹[on the first day of the fourth
16 month after enactment] immediately¹.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

SENATE, No. 2255

STATE OF NEW JERSEY

DATED: JUNE 25, 2001

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 2255 (1R).

This bill addresses the recent backlog in parole eligibility hearings faced by the Parole Board and seeks to prevent a recurrence of this problem by making various changes to the "Parole Act of 1979," P.L.1979, c.441 (C.30:4-123.45 et seq.).

Unfilled vacancies on the Parole Board and a deluge of inmates eligible for parole hearings caused serious delays in granting parole hearings, as a result of which a class action civil rights lawsuit was filed on behalf of inmates with overdue hearings. A settlement proposed by the Attorney General resulted in the State paying fines, which were forwarded to a prisoners' advocacy group on behalf of incarcerated inmates who had not received timely parole hearings.

Specifically, this bill:

- C Increases the number of associate members of the parole board from 10 to 14 and the number of alternate members from one to three. In conjunction with the increase in the number of alternate members, the bill deletes from the law a provision empowering the Governor to appoint a temporary substitute alternate member;
- C Provides that the vice-chairman will assume the duties of the chairman when the chairman is unavailable or unable to perform his duties and that an alternate board member will assume the duties of an associate member under the same conditions or when the associate member assumes the duties of the chairman;
- C Permits the Governor to appoint a qualified person to assume the duties of any member when that member or an alternate member is absent, unavailable, or otherwise unable to perform the member's duties;
- C Permits the Governor to appoint up to four temporary acting parole board members for a term of three months. The chairman of the parole board must first certify that additional panels are needed temporarily to process parole decisions. Those appointees must be qualified with training or experience in law, sociology, criminal justice, juvenile justice or related branches of the social sciences. The Governor may extend a temporary member's term

for an additional three months if needed. Temporary acting members are authorized to participate in administrative review of initial parole hearing decisions, parole consideration hearings and determinations concerning revocation or rescission of parole;

- C Increases the number of panels on adult sentences from three to six, permits the chairman to assign a temporary acting member to a panel, and eliminates a permanent panel on young adult sentences;
- C Accords the parole board chairman plenary authority within the board to call board meetings, appoint staff, organize and direct the work of the board, and prepare the board's budget;
- C Provides that the board's annual report may include relevant information on compliance with established time frames in processing parole eligibility determinations, the effectiveness of any pertinent legislative or administrative measures, and recommendations to enhance board operations or to effectuate the purposes of the "Parole Act of 1979;" and
- C Permits the board to promulgate rules and regulations for the processing of any inmate whose parole eligibility date is "accelerated," as defined in the bill to be beyond the control of the board such as within 120 days of the sentencing, additional credit or institutional time credits, and provides that the board may modify the time periods for submitting the required reports in processing such inmates.

The provisions of this bill are identical to those of Assembly Bill No. 3092 (3R), which the committee also reports this day.

FISCAL IMPACT

The bill appropriates from the General Fund to the State Parole Board the sum of \$685,000, which is estimated to cover the first-year cost for the four additional associate members of the board and two administrative assistants, employee benefits, and equipment and administrative costs. The appropriation does not appear to cover the two additional alternate members and any administrative costs arising in connection with their service.

SENATE JUDICIARY COMMITTEE

STATEMENT TO

SENATE, No. 2255

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 25, 2001

The Senate Judiciary Committee reports favorably and with committee amendments Senate Bill No. 2255.

This bill is intended to address the recent backlog in parole eligibility hearings faced by the Parole Board and prevent a future reoccurrence of this problem by making various changes to the "Parole Act of 1979," P.L. 1979, c.441 (C. 30:4-123.45 et seq.).

Specifically this bill would:

- ! Increase the number of associate members of the parole board from 10 to 14;
- ! Provide that the vice-chairman will assume the duties of the chairman when the chairman is unavailable or unable to perform his duties and that an alternate board member will assume the duties of an associate member under the same conditions or when the associate member assumes the duties of the chairman;
- ! Permit the Governor to appoint a qualified person to assume the duties of any member when that member or an alternate member is absent, unavailable, or otherwise unable to perform the member's duties;
- ! Permit the Governor to appoint up to four temporary acting parole board members for a term of three months. the chairman of the parole board must first certify that additional panels are needed temporarily to process parole decisions. Those appointees must be qualified with training or experience in law, sociology, criminal justice, juvenile justice or related branches of the social sciences. The Governor may extend a temporary acting member's term for an additional three months if needed. Temporary acting members are authorized to participate in administrative review of initial parole hearing decisions, parole consideration hearings and determinations concerning revocation or rescission of parole;
- ! Increase the number of panels on adult sentences from three to six, permit the chairman to assign a temporary acting member to a panel, and eliminate a permanent panel on young adult sentences;
- ! Provide that the board's annual report may include relevant information on compliance with established time frames in

processing parole eligibility determinations, the effectiveness of any pertinent legislative or administrative measures, and recommendations to enhance board operations or to effectuate the purpose of the "Parole Act of 1979;" and

- ! Permit the board to promulgate rules and regulations for the processing of any inmate who parole eligibility date is "accelerated," as defined in the bill to beyond the control of the board such as within 120 days of the sentencing, additional credit or institutional time credits, and provides that the board may modify the time periods for submitting the required reports in processing such inmates.

This bill appropriate \$685,000 to the Department of Corrections for use by the Parole Board in carry out the provisions of the bill. Of this amount, \$462,000 would be used for the salaries of four additional board members and two staff members and two staff assistants, \$115,500 for employee benefits and \$90,000 for equipment and administrative costs.

The amendments adopted by the committee:

1. Increase the number of alternate parole board members from one to three.
2. Stagger the initial terms of the four new positions on the parole board: one would be appointed for six years; one for five years; one for four years and one for three years.
3. Include language clarifying that those employees of the Division of Parole who have permanent career status would maintain that status.
4. Change the bill's effective date so that the bill would take effect immediately.

P.L. 2001, CHAPTER 141, *approved July 2, 2001*
Assembly, No. 3092 (*Third Reprint*)

1 AN ACT concerning the parole board ²[and],² amending P.L.1979,
2 c.441 ²and making an appropriation².

3

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

6

7 1. Section 3 of P.L.1979, c.441 (C.30:4-123.47) is amended to
8 read as follows:

9 3. a. There is hereby created and established within the
10 Department of Corrections a State Parole Board which shall consist of
11 a chairman, [10] 14 associate members and ³[one] three³ alternate
12 board ³[member] members³. The chairman, associate members and
13 alternate board member shall be appointed by the Governor with the
14 advice and consent of the Senate from qualified persons with training
15 or experience in law, sociology, criminal justice, juvenile justice or
16 related branches of the social sciences. Members of the board and the
17 alternate board member shall be appointed for terms of six years and
18 the terms of their successors shall be calculated from the expiration of
19 the incumbent's term. Members shall serve until their successors are
20 appointed and have qualified.

21 The Governor shall designate a vice-chairman from among the
22 associate members. The vice-chairman shall assume the duties of the
23 chairman when the chairman is absent, unavailable or otherwise
24 [incapable of performing] unable to perform his duties, or, in the case
25 of removal or a permanent incapacity, until the qualification of a
26 successor chairman appointed by the Governor.

27 The alternate board member may assume the duties of an associate
28 member when the associate member is absent, unavailable or otherwise
29 unable to perform his duties, or the associate member assumes the
30 duties of the chairman, and shall perform those duties only until the
31 associate resumes his duties, or, in the case of removal or a permanent
32 incapacity, the qualification of a successor appointed by the Governor.

33 b. (1) Any vacancy occurring in the membership of the board,
34 otherwise than by expiration of term, shall be filled in the same manner
35 as one occurring by expiration of term, but for the unexpired term
36 only. ³[In the event that any member of the board [shall be rendered
37 incapable of performing] is absent, unavailable or otherwise unable to
38 perform his duties and the alternate board member is incapable of

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 Assembly ALP committee amendments adopted February 5, 2001.

² Assembly AAP committee amendments adopted March 1, 2001.

³ Senate SJU committee amendments adopted June 25, 2001.

1 performing that associate's duties, either because the alternate board
2 member has assumed the duties of another associate or is absent,
3 unavailable or otherwise [rendered incapable of performing] unable
4 to perform the associate's duties, the Governor shall appoint a
5 qualified person to act in ~~[his]~~ the alternate board member's stead
6 during the period of ~~[his]~~ the alternate's incapacity.]³ Any member
7 of the board, including ³~~[the]~~ any³ alternate board member, may be
8 removed from office by the Governor for cause.

9 (2) Upon certification of the chairman that additional parole panels
10 are needed on a temporary basis for the efficient processing of parole
11 decisions, the Governor also may appoint not more than four
12 temporary acting parole board members from qualified persons with
13 training or experience in law, sociology, criminal justice, juvenile
14 justice or related branches of the social sciences. A temporary acting
15 member shall be appointed for a term of three months. The Governor
16 may extend the appointment of any or all of the temporary acting
17 members for additional terms of three months, upon certification of the
18 chairman that additional parole panels are needed on a temporary basis
19 for the efficient processing of parole decisions. A temporary acting
20 member shall be authorized to participate in administrative review of
21 initial parole hearing decisions, parole consideration hearings and
22 determinations concerning revocation or rescission of parole.

23 c. The members of the board shall devote their full time to the
24 performance of their duties and be compensated pursuant to section 2
25 of P.L.1974, c.55 (C.52:14-15.108). ³~~[The]~~ Any³ alternate member
26 and any temporary acting members shall be entitled to compensation.
27 The amount of such compensation shall be determined by multiplying
28 the rate an associate member would be paid on a per diem basis times
29 the number of days the alternate board member or temporary acting
30 member actually performed the duties of an associate member in
31 accordance with the provisions of this section.

32 d. At the time of appointment, the Governor shall designate two
33 associate members of the board to serve on a panel on juvenile
34 commitments. The remaining ~~[eight]~~ 12 associate members of the
35 board shall be appointed by the Governor to panels on adult sentences
36 ~~[. The]~~ and assigned by the chairman of the board ~~[shall assign six of~~
37 ~~the associate members so appointed]~~ to ~~[three]~~six panels on ~~[prison]~~
38 adult sentences ~~[, and the remaining two associate members so~~
39 ~~appointed to a panel on young adult sentences]~~. The chairman of the
40 board shall be a member of each panel. Nothing provided herein shall
41 prohibit the chairman from reassigning any member appointed to a
42 panel on adult sentences to facilitate the efficient function of the
43 board. Nothing provided herein shall prohibit the chairman from
44 temporarily reassigning any member appointed to a panel on juvenile
45 commitments to a panel on adult sentences ~~[either as a member of a~~

1 panel on prison sentences] or a panel on young adult sentences to
2 facilitate the efficient function of the board. The alternate board
3 member may assume, in accordance with the provisions of this section,
4 the duties of any associate member, regardless of whether that
5 associate member serves on a panel on juvenile commitments or panels
6 on adult sentences [either as a member of a panel on prison sentences
7 or a panel on young adult sentences.] The chairman may assign a
8 temporary acting member to a panel on adult sentences or juvenile
9 commitments.

10 ³e. Of the associate members first appointed to the four positions
11 created pursuant to the provisions of P.L. , c. (now pending before
12 the Legislature as this bill), one shall be appointed for a term of six
13 years; one shall be appointed for a term of five years; one shall be
14 appointed for a term of four years and one shall be appointed for a
15 term of three years.³

16 (cf: P.L.1999, c.139, s.1)

17
18 2. Section 4 of P.L.1979, c.441 (C.30:4-123.48) is amended to
19 read as follows:

20 4. a. All policies and determinations of the Parole Board shall be
21 made by the majority vote of the members.

22 b. Except where otherwise noted, parole determinations on
23 individual cases pursuant to this act shall be made by the majority vote
24 of a quorum of the appropriate board panel established pursuant to this
25 section.

26 c. The chairman of the board shall be the chief executive officer of
27 the board and, after consulting with the board, shall be responsible for
28 designating the time and place of all board meetings, for appointing the
29 board's employees, for organizing, controlling and directing the work
30 of the board and its employees, and for preparation and justification of
31 the board's budget. ³[The nonsecretarial professional and supervisory
32 employees of the board such as, but not limited to, hearing officers,
33 shall serve at the pleasure of the chairman and shall not be subject to
34 the provisions of Title 11 of the Revised Statutes. Nothing contained
35 herein shall be deemed to affect the employees of the Department of
36 Corrections, such as parole officers assigned to supervise parolees.]
37 Hearing officers and such other positions as are designated by the
38 Commissioner of the Department of Personnel shall serve at the
39 pleasure of the chairman and shall not be subject to the provisions of
40 Title 11A of the New Jersey Statutes. All other employees shall be in
41 the career service and subject to the provisions of Title 11A of the
42 New Jersey Statutes. All such career services employees who are
43 employed by the State Parole Board on September 5, 2001 shall have
44 permanent career service status with seniority awarded from the date
45 of their appointments. Parole officers assigned to supervise adult
46 parolees and all supervisory titles associated with the supervision of

1 adult parolees in the parole officer series shall be classified employees
2 subject to the provisions of Title 11A of the New Jersey Statutes.
3 Parole officers assigned to supervise adult parolees and all supervisory
4 titles associated with the supervision of adult parolees in the parole
5 officer job classification series shall be organizationally assigned to the
6 State Parole Board with a sworn member of the Division of Parole
7 appointed to act as director of parole supervision. The director of
8 parole supervision shall report directly to the Chairman of the State
9 Parole Board or to such person as the chairman may designate³.

10 d. The board shall promulgate such reasonable rules and
11 regulations, consistent with this act, as may be necessary for the
12 proper discharge of its responsibilities. The chairman shall file such
13 rules and regulations with the Secretary of State. The provisions of
14 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
15 seq.) shall apply to the promulgation of rules and regulations
16 concerning policy and administration, but not to other actions taken
17 under this act, such as parole hearings, parole revocation hearings and
18 review of parole cases. In determination of its rules and regulations
19 concerning policy and administration, the board shall consult the
20 Governor, the Commissioner of Corrections and the Juvenile Justice
21 Commission established pursuant to section 2 of P.L.1995, c.284
22 (C.52:17B-170).

23 e. The board, in conjunction with the Department of Corrections
24 and the Juvenile Justice Commission, shall develop a uniform
25 information system in order to closely monitor the parole process.
26 Such system shall include participation in the Uniform Parole Reports
27 of the National Council on Crime and Delinquency.

28 f. The board shall transmit a report of its work for the preceding
29 fiscal year, including information on the causes and extent of parole
30 recidivism, to the Governor, the Legislature and the Juvenile Justice
31 Commission annually. The report also may include relevant
32 information on compliance with established time frames in the
33 processing of parole eligibility determinations, the effectiveness of any
34 pertinent legislative or administrative measures, and any
35 recommendations to enhance board operations or to effectuate the
36 purposes of the "Parole Act of 1979," P.L.1979, c.441
37 (C.30:4-123.45 et seq.).

38 g. The board shall give public notice prior to considering any adult
39 inmate for release.

40 h. The board shall give notice to the appropriate prosecutor's office
41 and to the committing court prior to the initial consideration of any
42 juvenile inmate for release.

43 (cf: P.L.2001, c.79, s.5)

44

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

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

6 b. (1) The report filed pursuant to subsection a. shall contain
7 preincarceration records of the inmate, including any history of civil
8 commitment, any disposition which arose out of any charges
9 suspended pursuant to N.J.S.2C:4-6 including records of the
10 disposition of those charges and any acquittals by reason of insanity
11 pursuant to N.J.S.2C:4-1, state the conduct of the inmate during the
12 current period of confinement, include a complete report on the
13 inmate's social and physical condition, include an investigation by the
14 ³[Bureau] Division³ of Parole of the inmate's parole plans, and
15 present information bearing upon the likelihood that the inmate will
16 commit a crime under the laws of this State if released on parole. The
17 report shall also include a complete psychological evaluation of the
18 inmate in any case in which the inmate was convicted of a first or
19 second degree crime involving violence and:

20 (a) the inmate has a prior acquittal by reason of insanity pursuant
21 to N.J.S.2C:4-1 or had charges suspended pursuant to N.J.S.2C:4-6;
22 or

23 (b) the inmate has a prior conviction for murder pursuant to
24 N.J.S.2C:11-3, aggravated sexual assault or sexual assault pursuant to
25 N.J.S.2C:14-2, kidnapping pursuant to N.J.S.2C:13-1, endangering the
26 welfare of a child which would constitute a crime of the second degree
27 pursuant to N.J.S.2C:24-4, or stalking which would constitute a crime
28 of the third degree pursuant to P.L.1992, c.209 (C.2C:12-10); or

29 (c) the inmate has a prior diagnosis of psychosis.

30 The inmate shall disclose any information concerning any history of
31 civil commitment.

32 The preincarceration records of the inmate contained in the report
33 shall include any psychological reports prepared in connection with
34 any court proceedings.

35 (2) At the time of sentencing, the prosecutor shall notify any victim
36 injured as a result of a crime of the first or second degree or the
37 nearest relative of a murder victim of the opportunity to present a
38 written or videotaped statement for the parole report to be considered
39 at the parole hearing or to testify to the parole board concerning his
40 harm at the time of the parole hearing. Each victim or relative shall be
41 responsible for notifying the board of his intention to submit such a
42 statement and to provide an appropriate mailing address.

43 The report may include a written or videotaped statement
44 concerning the continuing nature and extent of any physical harm or
45 psychological or emotional harm or trauma suffered by the victim, the
46 extent of any loss of earnings or ability to work suffered by the victim

1 and the continuing effect of the crime upon the victim's family. At the
2 time public notice is given that an inmate is being considered for
3 parole pursuant to this section, the board shall also notify any victim
4 or nearest relative who has previously contacted the board of the
5 availability to provide a written or videotaped statement for inclusion
6 in the parole report or to present testimony at the parole hearing.

7 The board shall notify such person at his last known mailing
8 address.

9 c. A copy of the report filed pursuant to subsection a. of this
10 section, excepting those documents which have been classified as
11 confidential pursuant to rules and regulations of the board or the
12 Department of Corrections, shall be served on the inmate at the time
13 it is filed with the board panel. The inmate may file with the board
14 panel a written statement regarding the report, but shall do so within
15 105 days prior to the primary parole eligibility date.

16 d. Upon receipt of the public notice pursuant to section 1 of
17 P.L.1979, c.441 (C.30:4-123.45), a county prosecutor may request
18 from the parole board a copy of the report on any adult inmate
19 prepared pursuant to subsection a. of this section, which shall be
20 expeditiously forwarded to the county prosecutor by the parole board
21 by mail, courier, or other means of delivery. Upon receipt of the
22 report, the prosecutor has 10 working days to review the report and
23 notify the parole board of the prosecutor's comments, if any, or notify
24 the parole board of the prosecutor's intent to provide comments. If
25 the county prosecutor does not provide comments or notify the parole
26 board of the prosecutor's intent to provide comments within the 10
27 working days, the parole board may presume that the prosecutor does
28 not wish to provide comments and may proceed with the parole
29 consideration. Any comments provided by a county prosecutor shall
30 be delivered to the parole board by the same method by which the
31 county prosecutor received the report. The confidentiality of the
32 contents in a report which are classified as confidential shall be
33 maintained and shall not be disclosed to any person who is not
34 authorized to receive or review a copy of the report containing the
35 confidential information.

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

40 f. Notwithstanding any provision of this section, the board may
41 modify the time periods for submitting the reports required pursuant
42 to this section in processing an inmate whose parole eligibility date is
43 accelerated pursuant to section ¹[4] ¹¹ of P.L.1979, c.441 (C.30:4-
44 123.55).

45 (cf: P.L.1999, c.304, s.1)

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

3 11. a. Prior to the parole eligibility date of each adult inmate, a
4 designated hearing officer shall review the reports required by section
5 10 of P.L.1979, c.441 (C.30:4-123.54), and shall determine whether
6 there is a basis for denial of parole in the preparole report, any risk
7 assessment prepared in accordance with the provisions of subsection
8 e. of section 8 of P.L.1979, c.441 (C.30:4-123.52), or the inmate's
9 statement, or an indication, reduced to writing, that additional
10 information providing a basis for denial of parole would be developed
11 or produced at a hearing. If the hearing officer determines that there
12 is no basis in the preparole report, the risk assessment, or the inmate's
13 statement for denial of parole and that there is no additional relevant
14 information to be developed or produced at a hearing, he shall at least
15 60 days prior to the inmate's parole eligibility date recommend in
16 writing to the assigned member of the board panel that parole release
17 be granted.

18 b. If the assigned member of the board panel or in the case of an
19 inmate sentenced to a county penal institution, the assigned member
20 concurs in the hearing officer's recommendation, he shall certify parole
21 release pursuant to section 15 of P.L.1979, c.441 (C.30:4-123.59) as
22 soon as practicable after the eligibility date and so notify the inmate
23 and the board. In the case of an inmate sentenced to a county penal
24 institution the board shall certify parole release or deny parole as
25 provided by this section, except with regard to time periods for notice
26 and parole processing which are authorized by or otherwise adopted
27 pursuant to subsection g. of section 7 of P.L.1979, c.441
28 (C.30:4-123.51). If the designated hearing officer does not
29 recommend release on parole or if the assigned member does not
30 concur in a recommendation of the designated hearing officer in favor
31 of release, then the parole release of an inmate in a county penal
32 institution shall be treated under the provisions of law otherwise
33 applicable to an adult inmate. In the case of an inmate sentenced to a
34 county penal institution, the performance of public service for the
35 remainder of the term of the sentence shall be a required condition of
36 parole, where appropriate.

37 c. If the hearing officer or the assigned member determines that
38 there is a basis for denial of parole, or that a hearing is otherwise
39 necessary, the hearing officer or assigned member shall notify the
40 appropriate board panel and the inmate in writing of his determination,
41 and of a date for a parole consideration hearing. The board panel shall
42 notify the victim of the crime, if the crime for which the inmate is
43 incarcerated was a crime of the first or second degree, or the victim's
44 nearest relative if the crime was murder, as appropriate, who was
45 previously contacted by the board and who has indicated his intention
46 to the board to testify at the hearing, of the opportunity to testify or

1 submit written or videotaped statements at the hearing. Said hearing
2 shall be conducted by the appropriate board panel at least 30 days
3 prior to the eligibility date. At the hearing, which shall be informal,
4 the board panel shall receive as evidence any relevant and reliable
5 documents or videotaped or in person testimony, including that of the
6 victim of the crime or the members of the family of a murder victim if
7 the victim or a family member so desires. If a victim of a crime or the
8 relative of a murder victim chooses not to testify personally at the
9 hearing, the victim or relative may elect to present testimony to a
10 senior hearing officer designated by the board panel. The senior
11 hearing officer shall notify the victim of the right to have this
12 testimony videotaped. The senior hearing officer shall prepare a
13 report, transcript or videotape, if applicable, of the testimony for
14 presentation to the board panel at the hearing. All such evidence not
15 classified as confidential pursuant to rules and regulations of the board
16 or the Department of Corrections shall be disclosed to the inmate and
17 the inmate shall be permitted to rebut such evidence and to present
18 evidence on his own behalf. The decision of the board panel shall be
19 based solely on the evidence presented at the hearing.

20 d. At the conclusion of the parole consideration hearing, the board
21 panel shall either (1) certify the parole release of the inmate pursuant
22 to section 15 of this act as soon as practicable after the eligibility date
23 and so notify the inmate and the board, or (2) deny parole and file with
24 the board within 30 days of the hearing a statement setting forth the
25 decision, the particular reasons therefor, except information classified
26 as confidential pursuant to rules and regulations of the board or the
27 Department of Corrections, a copy of which statement shall be served
28 upon the inmate together with notice of his right to appeal to the
29 board.

30 e. Upon request by the hearing officer or the inmate, the time
31 limitations contained in section 10 of P.L.1979, c.441 (C.30:4-123.54)
32 and this section may be waived by the appropriate board panel for
33 good cause.

34 f. Notwithstanding the provision of any other law to the contrary,
35 if an inmate incarcerated for murder is recommended for parole by the
36 assigned board member or the appropriate board panel, parole shall
37 not be certified until a majority of the full parole board, after
38 conducting a hearing, concurs in that recommendation. The board
39 shall notify the victim's family of that hearing and family members shall
40 be afforded the opportunity to testify in person or to submit written or
41 videotaped statements. The provisions of this subsection shall not
42 apply to an inmate who has his parole revoked and is returned to
43 custody pursuant to the provisions of section 19 of P.L.1979, c.441
44 (C.30:4-123.63).

45 g. Notwithstanding the provision of any other law or regulation to
46 the contrary, the board may promulgate rules and regulations for the

1 processing of any inmate whose parole eligibility date is accelerated.
2 For purposes of this section, a parole eligibility date is accelerated
3 when an inmate becomes eligible for parole at the time of or within
4 120 days of an event or circumstance beyond the control of the parole
5 board, such as sentencing, resentencing or other amendment, including
6 the awarding of additional credit to the original sentence, restoration
7 of authorized institutional time credits or the application of authorized
8 institutional time credits on a future eligibility date established
9 pursuant to subsection a. of section 12 of P.L.1979, c.441 (C.30:4-
10 123.56) or subsection a. of section 20 of P.L.1979, c.441 (C.30:4-
11 123.64). The rules and regulations shall provide for the preparation
12 and review of a preparole report and shall require that a parole
13 consideration hearing be held not more than 120 days after the board
14 has received notice that an accelerated parole eligibility date has been
15 established.

16 (cf: P.L.1999, c.304, s.2)

17

18 5. Section 16 of P.L.1979, c.441 (C30:4-123.60) is amended to
19 read as follows:

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

26 b. Any parolee who has seriously or persistently violated the
27 conditions of his parole, may have his parole revoked and may be
28 returned to custody pursuant to sections 18 and 19 of P.L.1979, c.441
29 (C.30:4-123.62 and 30:4-123.63). The board shall be notified
30 immediately upon the arrest or indictment of a parolee or upon the
31 filing of charges that the parolee committed an act which, if committed
32 by an adult, would constitute a crime. The board shall not revoke
33 parole on the basis of new charges which have not resulted in a
34 disposition at the trial level except that upon application by the
35 prosecuting authority, the Juvenile Justice Commission established
36 pursuant to section 2 of P.L.1995, c.284 (C.52:17B-170) or the
37 Director of the State Parole Board's Division of Parole ³or his
38 designee³, the chairman of the board or his designee may at any time
39 detain the parolee and commence revocation proceedings pursuant to
40 sections 18 and 19 of P.L.1979, c.441 (C.30:4-123.62 and
41 30:4-123.63) when the chairman determines that the new charges
42 against the parolee are of a serious nature and it appears that the
43 parolee otherwise poses a danger to the public safety. In such cases,
44 a parolee shall be informed that, if he testifies at the revocation
45 proceedings, his testimony and the evidence derived therefrom shall
46 not be used against him in a subsequent criminal prosecution or

1 delinquency adjudication.

2 c. Any parolee who is convicted of a crime or adjudicated
3 delinquent for an act which, if committed by an adult, would constitute
4 a crime, committed while on parole shall have his parole revoked and
5 shall be returned to custody unless the parolee demonstrates, by clear
6 and convincing evidence at a hearing pursuant to section 19 of
7 P.L.1979, c.441 (C.30:4-123.63), that good cause exists why he
8 should not be returned to confinement.
9 (cf: P.L.2001, c.79, s.11)

10

11 ³[²5.] 6.³ There is appropriated from the General Fund to the
12 Department of Corrections for the State Parole Board \$685,000 to
13 effectuate the purposes of this act. Of this amount, \$462,000 shall be
14 used for the salaries of four additional board members and two
15 administrative assistants, \$115,500 for employee benefits and \$90,000
16 for equipment and administrative costs.²

17

18 ³[²[5.] 6.²] 7.³ This act shall take effect ³[on the first day of the
19 fourth month after enactment] immediately³.

20

21

22

23

24 _____
25 Increases membership of parole board; provides for appointment of
26 temporary members, accelerates processing of certain inmates' cases
and appropriates \$685,000.

CHAPTER 141

AN ACT concerning the parole board, amending P.L.1979, c.441 and making an appropriation.

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

1. Section 3 of P.L.1979, c.441 (C.30:4-123.47) is amended to read as follows:

C.30:4-123.47 State Parole Board.

3. a. There is hereby created and established within the Department of Corrections a State Parole Board which shall consist of a chairman, 14 associate members and three alternate board members. The chairman, associate members and alternate board members shall be appointed by the Governor with the advice and consent of the Senate from qualified persons with training or experience in law, sociology, criminal justice, juvenile justice or related branches of the social sciences. Members of the board and the alternate board members shall be appointed for terms of six years and the terms of their successors shall be calculated from the expiration of the incumbent's term. Members shall serve until their successors are appointed and have qualified.

The Governor shall designate a vice-chairman from among the associate members. The vice-chairman shall assume the duties of the chairman when the chairman is absent, unavailable or otherwise unable to perform his duties, or, in the case of removal or a permanent incapacity, until the qualification of a successor chairman appointed by the Governor.

Any alternate board member may assume the duties of an associate member when the associate member is absent, unavailable or otherwise unable to perform his duties, or the associate member assumes the duties of the chairman, and shall perform those duties only until the associate resumes his duties, or, in the case of removal or a permanent incapacity, the qualification of a successor appointed by the Governor.

b. (1) Any vacancy occurring in the membership of the board, otherwise than by expiration of term, shall be filled in the same manner as one occurring by expiration of term, but for the unexpired term only. Any member of the board, including any alternate board member, may be removed from office by the Governor for cause.

(2) Upon certification of the chairman that additional parole panels are needed on a temporary basis for the efficient processing of parole decisions, the Governor also may appoint not more than four temporary acting parole board members from qualified persons with training or experience in law, sociology, criminal justice, juvenile justice or related branches of the social sciences. A temporary acting member shall be appointed for a term of three months. The Governor may extend the appointment of any or all of the temporary acting members for additional terms of three months, upon certification of the chairman that additional parole panels are needed on a temporary basis for the efficient processing of parole decisions. A temporary acting member shall be authorized to participate in administrative review of initial parole hearing decisions, parole consideration hearings and determinations concerning revocation or rescission of parole.

c. The members of the board shall devote their full time to the performance of their duties and be compensated pursuant to section 2 of P.L.1974, c.55 (C.52:14-15.108). Any alternate member and any temporary acting members shall be entitled to compensation. The amount of such compensation shall be determined by multiplying the rate an associate member would be paid on a per diem basis times the number of days the alternate board member or temporary acting member actually performed the duties of an associate member in accordance with the provisions of this section.

d. At the time of appointment, the Governor shall designate two associate members of the board to serve on a panel on juvenile commitments. The remaining 12 associate members of the board shall be appointed by the Governor to panels on adult sentences and assigned by the chairman of the board to six panels on adult sentences. The chairman of the board shall be a member of each panel. Nothing provided herein shall prohibit the chairman from reassigning any member appointed to a panel on adult sentences to facilitate the efficient function of the board. Nothing provided herein shall prohibit the chairman from temporarily reassigning any member appointed to a panel on juvenile commitments to a panel on adult sentences or a panel on young adult sentences to facilitate the efficient function of the board. The alternate board member may assume, in accordance with the provisions of this section, the duties of any associate member, regardless of whether that associate member serves on a panel on juvenile commitments or

panels on adult sentences. The chairman may assign a temporary acting member to a panel on adult sentences or juvenile commitments.

e. Of the associate members first appointed to the four positions created pursuant to the provisions of P.L.2001, c.141, one shall be appointed for a term of six years; one shall be appointed for a term of five years; one shall be appointed for a term of four years and one shall be appointed for a term of three years.

2. Section 4 of P.L.1979, c.441 (C.30:4-123.48) is amended to read as follows:

C.30:4-123.48 Policies, determinations of parole board.

4. a. All policies and determinations of the Parole Board shall be made by the majority vote of the members.

b. Except where otherwise noted, parole determinations on individual cases pursuant to this act shall be made by the majority vote of a quorum of the appropriate board panel established pursuant to this section.

c. The chairman of the board shall be the chief executive officer of the board and, after consulting with the board, shall be responsible for designating the time and place of all board meetings, for appointing the board's employees, for organizing, controlling and directing the work of the board and its employees, and for preparation and justification of the board's budget.

Hearing officers and such other positions as are designated by the Commissioner of the Department of Personnel shall serve at the pleasure of the chairman and shall not be subject to the provisions of Title 11A of the New Jersey Statutes. All other employees shall be in the career service and subject to the provisions of Title 11A of the New Jersey Statutes. All such career service employees who are employed by the State Parole Board on September 5, 2001 shall have permanent career service status with seniority awarded from the date of their appointments. Parole officers assigned to supervise adult parolees and all supervisory titles associated with the supervision of adult parolees in the parole officer series shall be classified employees subject to the provisions of Title 11A of the New Jersey Statutes. Parole officers assigned to supervise adult parolees and all supervisory titles associated with the supervision of adult parolees in the parole officer job classification series shall be organizationally assigned to the State Parole Board with a sworn member of the Division of Parole appointed to act as director of parole supervision. The director of parole supervision shall report directly to the Chairman of the State Parole Board or to such person as the chairman may designate.

d. The board shall promulgate such reasonable rules and regulations, consistent with this act, as may be necessary for the proper discharge of its responsibilities. The chairman shall file such rules and regulations with the Secretary of State. The provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) shall apply to the promulgation of rules and regulations concerning policy and administration, but not to other actions taken under this act, such as parole hearings, parole revocation hearings and review of parole cases. In determination of its rules and regulations concerning policy and administration, the board shall consult the Governor, the Commissioner of Corrections and the Juvenile Justice Commission established pursuant to section 2 of P.L.1995, c.284 (C.52:17B-170).

e. The board, in conjunction with the Department of Corrections and the Juvenile Justice Commission, shall develop a uniform information system in order to closely monitor the parole process. Such system shall include participation in the Uniform Parole Reports of the National Council on Crime and Delinquency.

f. The board shall transmit a report of its work for the preceding fiscal year, including information on the causes and extent of parole recidivism, to the Governor, the Legislature and the Juvenile Justice Commission annually. The report also may include relevant information on compliance with established time frames in the processing of parole eligibility determinations, the effectiveness of any pertinent legislative or administrative measures, and any recommendations to enhance board operations or to effectuate the purposes of the "Parole Act of 1979," P.L.1979, c.441 (C.30:4-123.45 et seq.).

g. The board shall give public notice prior to considering any adult inmate for release.

h. The board shall give notice to the appropriate prosecutor's office and to the committing

court prior to the initial consideration of any juvenile inmate for release.

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

C.30:4-123.54 Report prior to parole eligibility date.

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

b. (1) The report filed pursuant to subsection a. shall contain preincarceration records of the inmate, including any history of civil commitment, any disposition which arose out of any charges suspended pursuant to N.J.S.2C:4-6 including records of the disposition of those charges and any acquittals by reason of insanity pursuant to N.J.S.2C:4-1, state the conduct of the inmate during the current period of confinement, include a complete report on the inmate's social and physical condition, include an investigation by the Division of Parole of the inmate's parole plans, and present information bearing upon the likelihood that the inmate will commit a crime under the laws of this State if released on parole. The report shall also include a complete psychological evaluation of the inmate in any case in which the inmate was convicted of a first or second degree crime involving violence and:

(a) the inmate has a prior acquittal by reason of insanity pursuant to N.J.S.2C:4-1 or had charges suspended pursuant to N.J.S.2C:4-6; or

(b) the inmate has a prior conviction for murder pursuant to N.J.S.2C:11-3, aggravated sexual assault or sexual assault pursuant to N.J.S.2C:14-2, kidnapping pursuant to N.J.S.2C:13-1, endangering the welfare of a child which would constitute a crime of the second degree pursuant to N.J.S.2C:24-4, or stalking which would constitute a crime of the third degree pursuant to P.L.1992, c.209 (C.2C:12-10); or

(c) the inmate has a prior diagnosis of psychosis.

The inmate shall disclose any information concerning any history of civil commitment.

The preincarceration records of the inmate contained in the report shall include any psychological reports prepared in connection with any court proceedings.

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

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

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

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

d. Upon receipt of the public notice pursuant to section 1 of P.L.1979, c.441 (C.30:4-123.45), a county prosecutor may request from the parole board a copy of the report on any adult inmate prepared pursuant to subsection a. of this section, which shall be expeditiously forwarded to the county prosecutor by the parole board by mail, courier, or other means of delivery. Upon receipt of the report, the prosecutor has 10 working days to review the

report and notify the parole board of the prosecutor's comments, if any, or notify the parole board of the prosecutor's intent to provide comments. If the county prosecutor does not provide comments or notify the parole board of the prosecutor's intent to provide comments within the 10 working days, the parole board may presume that the prosecutor does not wish to provide comments and may proceed with the parole consideration. Any comments provided by a county prosecutor shall be delivered to the parole board by the same method by which the county prosecutor received the report. The confidentiality of the contents in a report which are classified as confidential shall be maintained and shall not be disclosed to any person who is not authorized to receive or review a copy of the report containing the confidential information.

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

f. Notwithstanding any provision of this section, the board may modify the time periods for submitting the reports required pursuant to this section in processing an inmate whose parole eligibility date is accelerated pursuant to section 11 of P.L.1979, c.441 (C.30:4-123.55).

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

C.30:4-123.55 Review of reports, risk assessment, inmate's statement; certification, denial of parole; hearing.

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

b. If the assigned member of the board panel or in the case of an inmate sentenced to a county penal institution, the assigned member concurs in the hearing officer's recommendation, he shall certify parole release pursuant to section 15 of P.L.1979, c.441 (C.30:4-123.59) as soon as practicable after the eligibility date and so notify the inmate and the board. In the case of an inmate sentenced to a county penal institution the board shall certify parole release or deny parole as provided by this section, except with regard to time periods for notice and parole processing which are authorized by or otherwise adopted pursuant to subsection g. of section 7 of P.L.1979, c.441 (C.30:4-123.51). If the designated hearing officer does not recommend release on parole or if the assigned member does not concur in a recommendation of the designated hearing officer in favor of release, then the parole release of an inmate in a county penal institution shall be treated under the provisions of law otherwise applicable to an adult inmate. In the case of an inmate sentenced to a county penal institution, the performance of public service for the remainder of the term of the sentence shall be a required condition of parole, where appropriate.

c. If the hearing officer or the assigned member determines that there is a basis for denial of parole, or that a hearing is otherwise necessary, the hearing officer or assigned member shall notify the appropriate board panel and the inmate in writing of his determination, and of a date for a parole consideration hearing. The board panel shall notify the victim of the crime, if the crime for which the inmate is incarcerated was a crime of the first or second degree, or the victim's nearest relative if the crime was murder, as appropriate, who was previously contacted by the board and who has indicated his intention to the board to testify at the hearing, of the opportunity to testify or submit written or videotaped statements at the hearing. Said hearing shall be conducted by the appropriate board panel at least 30 days prior to the eligibility date. At the hearing, which shall be informal, the board panel shall receive as evidence any relevant

and reliable documents or videotaped or in person testimony, including that of the victim of the crime or the members of the family of a murder victim if the victim or a family member so desires. If a victim of a crime or the relative of a murder victim chooses not to testify personally at the hearing, the victim or relative may elect to present testimony to a senior hearing officer designated by the board panel. The senior hearing officer shall notify the victim of the right to have this testimony videotaped. The senior hearing officer shall prepare a report, transcript or videotape, if applicable, of the testimony for presentation to the board panel at the hearing. All such evidence not classified as confidential pursuant to rules and regulations of the board or the Department of Corrections shall be disclosed to the inmate and the inmate shall be permitted to rebut such evidence and to present evidence on his own behalf. The decision of the board panel shall be based solely on the evidence presented at the hearing.

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

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

f. Notwithstanding the provision of any other law to the contrary, if an inmate incarcerated for murder is recommended for parole by the assigned board member or the appropriate board panel, parole shall not be certified until a majority of the full parole board, after conducting a hearing, concurs in that recommendation. The board shall notify the victim's family of that hearing and family members shall be afforded the opportunity to testify in person or to submit written or videotaped statements. The provisions of this subsection shall not apply to an inmate who has his parole revoked and is returned to custody pursuant to the provisions of section 19 of P.L.1979, c.441 (C.30:4-123.63).

g. Notwithstanding the provision of any other law or regulation to the contrary, the board may promulgate rules and regulations for the processing of any inmate whose parole eligibility date is accelerated. For purposes of this section, a parole eligibility date is accelerated when an inmate becomes eligible for parole at the time of or within 120 days of an event or circumstance beyond the control of the parole board, such as sentencing, resentencing or other amendment, including the awarding of additional credit to the original sentence, restoration of authorized institutional time credits or the application of authorized institutional time credits on a future eligibility date established pursuant to subsection a. of section 12 of P.L.1979, c.441 (C.30:4-123.56) or subsection a. of section 20 of P.L.1979, c.441 (C.30:4-123.64). The rules and regulations shall provide for the preparation and review of a preparole report and shall require that a parole consideration hearing be held not more than 120 days after the board has received notice that an accelerated parole eligibility date has been established.

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

C.30:4-123.60 Violation of parole conditions.

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

b. Any parolee who has seriously or persistently violated the conditions of his parole, may have his parole revoked and may be returned to custody pursuant to sections 18 and 19 of P.L.1979, c.441 (C.30:4-123.62 and 30:4-123.63). The board shall be notified immediately upon the arrest or indictment of a parolee or upon the filing of charges that the parolee committed an act which, if committed by an adult, would constitute a crime. The board shall not revoke parole on the basis of new charges which have not resulted in a disposition at the trial level except that

upon application by the prosecuting authority, the Juvenile Justice Commission established pursuant to section 2 of P.L.1995, c.284 (C.52:17B-170) or the Director of the State Parole Board's Division of Parole or his designee, the chairman of the board or his designee may at any time detain the parolee and commence revocation proceedings pursuant to sections 18 and 19 of P.L.1979, c.441 (C.30:4-123.62 and 30:4-123.63) when the chairman determines that the new charges against the parolee are of a serious nature and it appears that the parolee otherwise poses a danger to the public safety. In such cases, a parolee shall be informed that, if he testifies at the revocation proceedings, his testimony and the evidence derived therefrom shall not be used against him in a subsequent criminal prosecution or delinquency adjudication.

c. Any parolee who is convicted of a crime or adjudicated delinquent for an act which, if committed by an adult, would constitute a crime, committed while on parole shall have his parole revoked and shall be returned to custody unless the parolee demonstrates, by clear and convincing evidence at a hearing pursuant to section 19 of P.L.1979, c.441 (C.30:4-123.63), that good cause exists why he should not be returned to confinement.

6. There is appropriated from the General Fund to the Department of Corrections for the State Parole Board \$685,000 to effectuate the purposes of this act. Of this amount, \$462,000 shall be used for the salaries of four additional board members and two administrative assistants, \$115,500 for employee benefits and \$90,000 for equipment and administrative costs.

7. This act shall take effect immediately

Approved July 2, 2001.

Office of the Governor
NEWS RELEASE

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RELEASE: July 2 , 2001

**DiFRANCESCO SIGNS PAROLE BOARD LEGISLATION
Law Increases Membership of Parole Board, Provides for Appointment of
Temporary Members, and Accelerates Processing of Certain Inmates' Cases**

Acting Governor Donald T. DiFrancesco signed a bill into law today increasing the parole board membership, providing for the appointment of temporary members, accelerating the processing of certain cases, and appropriating \$685,000 to be used for salaries for new board members and support staff.

"By addressing the membership and vacancy issue, we expect the board will be able to keep up with the number of parole hearings necessary," stated DiFrancesco.

Specifically, A-3092 increases the number of associate members of the parole board from 10 to 14, and the number of alternate members of the parole board from 1 to 3. The bill also increases the number of panels on adult sentences from three to six.

This legislation permits the Governor to appoint a person to assume the duties of any member when that member or an alternate member is absent or unavailable. A-3092 also allows the Governor to appoint up to four temporary acting parole board members for a term of three months if the parole board chairman requests additional panels to temporarily process parole decisions.

The bill appropriates from the General Fund to the State Parole Board \$685,000 to cover the first-year cost of equipment, administrative expenses, and employee benefits for the four additional associate members of the board and two administrative assistants.

A-3092 was sponsored by Senators Louis F. Kosco (R - Bergen) and William L. Gormley (R - Atlantic) and Assemblymen James W. Holzapfel (R - Monmouth/Ocean) and Tom Smith (R - Monmouth).