

30:4-123.45 and 30:4-123.54

LEGISLATIVE HISTORY CHECKLIST

NJSA: 30:4-123.45 and 30:4-123.54 (Preparole reports- certain-
forward to county prosecutor)

LAWS OF: 1985 CHAPTER:44

Bill No: A495

Sponsor(s): Doyle

Date Introduced: Pre-filed

Committee: **Assembly:** Judiciary
Senate: Judiciary

Amended during passage: Yes A amendments denoted by asterisks
according to Governor's recommendations

Date of Passage: **Assembly:** June 28, 1984 Re-enacted 12-6-84
Senate: Sep. 13, 1984 Re-enacted 1-31-85

Date of Approval: February 11, 1985

Following statements are attached if available:

Sponsor statement: Yes

Committee statement: **Assembly** Yes
Senate Yes

Fiscal Note: No

Veto Message: Yes

Message on Signing: No

Following were printed:

Reports: No

Hearings: No

2-11-85

85

[SECOND OFFICIAL COPY REPRINT]

ASSEMBLY, No. 495

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1984 SESSION

By Assemblyman DOYLE

AN Act concerning notice requirements and parole report for county prosecutors ****[and]**** ***,*** amending P. L. 1979, c. 441******, and making an appropriation******.

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

1 1. Section 1 of P. L. 1979, c. 441 (C. 30:4-123.45) is amended to
2 read as follows:

3 1. a. This act shall be known and may be cited as the "Parole
4 Act of 1979."

5 b. In this act, unless a different meaning is plainly required:

6 (1) "Adult inmate" means any person sentenced as an adult to
7 a term of incarceration.

8 (2) "Juvenile inmate" means any person under commitment by
9 a juvenile court pursuant to subsection h. of section 20 of P. L.
10 1973, c. 306 (C. 2A:4-61(h)) *or by a family court pursuant to*
11 *section 24 of P. L. 1982, c. 77 (C. 2A:4A-44).*

12 (3) "Parole release date" means that date certified by a member
13 of the board for release of an inmate after a review of the inmate's
14 case pursuant to sections 11, 13 or 14 of this act.

15 (4) "Primary parole eligibility date" means that date estab-
16 lished for parole eligibility for adult inmates pursuant to section 7
17 or 20 of this act.

18 (5) "Public notice" shall consist of lists including names of all
19 inmates being considered for parole, the county from which he was
20 committed and the crime for which he was incarcerated. At least

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter printed in italics *thus* is new matter.

Matter enclosed in asterisks or stars has been adopted as follows:

*—Assembly committee amendments adopted April 30, 1984.

**—Assembly amendments adopted in accordance with Governor's recommendations November 19, 1984.

21 **[30]** ****[45]**** ****30**** days prior to parole consideration such lists
 22 shall be forwarded to the **[appropriate]** prosecutor's office *of each*
 23 *county* ****[in which the inmate had previously committed a crime]****,
 24 the sentencing court, the Office of the Attorney General, any other
 25 Criminal Justice agencies whose information and comment may be
 26 relevant, and news organizations.

27 (6) Removal for "cause" means such substantial cause as is
 28 plainly sufficient under the law and sound public policy touching
 29 upon qualifications appropriate to a member of the parole board
 30 or the administration of said board such that the public interest
 31 precludes the member's continuance in office. Such cause includes,
 32 but is not limited to, misconduct in office, incapacity, inefficiency
 33 and nonfeasance.

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

3 10. a. At least 120 days but not more than 180 days prior to the
 4 parole eligibility date of each adult inmate, a report concerning the
 5 inmate shall be filed with the appropriate board panel, by the staff
 6 members designated by the superintendent or other chief executive
 7 officer of the institution in which the inmate is held. ****[In addition,**
 8 *at least 30 days, but not more than 45 days prior to the parole*
 9 *eligibility date of each adult inmate, the same report concerning the*
 10 *inmate shall be sent by certified mail *by the parole board* to the*
 11 *prosecutor's office of the county from which the inmate was com-*
 11A *mitted. *The confidentiality of the contents in a report which are*
 11B *classified as confidential shall be maintained and shall not be dis-*
 11C *closed to any person who is not authorized to receive or review*
 11D *a copy of the report containing the confidential information.*]***

12 b. ***(1)*** The report filed pursuant to subsection a. shall contain
 13 preincarceration records of the inmate, state the conduct of the
 14 inmate during the current period of confinement, include a com-
 15 plete report on the inmate's social, physical and mental condition,
 16 include an investigation by the Bureau of Parole of the inmate's
 16A parole plans, and present information bearing upon the likelihood
 16B that the inmate will commit a crime under the laws of this State
 16C if released on parole.

17 ***(2)** *At the time of sentencing, the prosecutor shall notify any*
 17A *victim injured as a result of a crime of the first or second degree*
 17B *or the nearest relative of a murder victim of the opportunity to*
 17C *present a statement for the parole report to be considered at the*
 17D *parole hearing or to testify to the parole board concerning his*
 17E *harm at the time of the parole hearing. Each victim or relative*
 17F *shall be responsible for notifying the board of his intention to sub-*

18 *mit such a statement and to provide an appropriate mailing ad-*
18A *dress.*

18B *The report may include a statement concerning the continuing*
18C *nature and extent of any physical harm or psychological or emo-*
18D *tional harm or trauma suffered by the victim, the extent of any*
18E *loss of earnings or ability to work suffered by the victim and the*
18F *continuing effect of the crime upon the victim's family. At the time*
19 *public notice is given that an inmate is being considered for parole*
19A *pursuant to this section, the board shall also notify any victim or*
19B *nearest relative who has previously contacted the board of the*
19C *availability to provide a statement for inclusion in the parole re-*
19D *port or to present testimony at the parole hearing.*

19E *The board shall notify such person at his last known mailing*
19F *address.**

20 c. A copy of the report filed pursuant to subsection ****[b.]****
21 ****a.**** of this section, excepting those documents which have been
22 classified as confidential pursuant to rules and regulations of the
23 board or the Department of Corrections, shall be served on the
24 inmate at the time it is filed with the board panel. The inmate may
25 file with the board panel a written statement regarding the report,
26 but shall do so within 105 days prior to the primary parole eligi-
27 bility date.

28 ****d.** *Upon receipt of the public notice pursuant to section 1 of*
29 *P. L. 1979, c. 441 (C. 30:4-123.45), a county prosecutor may request*
30 *from the parole board a copy of the report on any adult inmate*
31 *prepared pursuant to subsection a. of this section which shall be*
32 *expeditiously forwarded to the county prosecutor by the parole*
33 *board by mail, courier, or other means of delivery. Upon receipt*
34 *of the report, the prosecutor has 10 working days to review the*
35 *report and notify the parole board of the prosecutor's comments,*
36 *if any, or notify the parole board of the prosecutor's intent to pro-*
37 *vide comments. If the county prosecutor does not provide comments*
38 *or notify the parole board of the prosecutor's intent to provide*
39 *comments within the 10 working days, the parole board may pre-*
40 *sume that the prosecutor does not wish to provide comments and*
41 *may proceed with the parole consideration. Any comments pro-*
42 *vided by a county prosecutor shall be delivered to the parole board*
43 *by the same method by which the county prosecutor received the*
44 *report. The confidentiality of the contents in a report which are*
45 *classified as confidential shall be maintained and shall not be dis-*
46 *closed to any person who is not authorized to receive or review a*
47 *copy of the report containing the confidential information.***

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

1 **3.** *There is hereby appropriated \$237,000.00 to the State parole
2 board in the Department of Corrections from the General Fund to
3 effectuate the purposes of this act.*

1 **3.** **4.** This act shall take effect 90 days after enactment.

STATEMENT

This bill is intended to strengthen the role of the prosecutor's office in the parole decision by extending notice concerning parole eligibility and requiring filing of the preparole report with the prosecutor. The bill would require that notice be sent at least 45 days prior to parole consideration to the county prosecutor's office in each county in which an inmate being considered for parole had previously committed a crime. Also, the bill requires that the preparole report be sent to the prosecutor of the county from which the inmate was committed at least 30 days, but not more than 45 days prior to the parole eligibility date.

ASSEMBLY JUDICIARY COMMITTEE

STATEMENT TO

ASSEMBLY, No. 495

with Assembly committee amendments

STATE OF NEW JERSEY

DATED: APRIL 26, 1984

Assembly Bill No. 495, as amended by the Assembly Judiciary Committee, strengthens the roll of the county prosecutor in the parole decision-making process by requiring that a list of the names of inmates being considered for parole be sent at least 45 days prior to parole consideration to the prosecutor of each county in which the inmate had previously committed a crime.

A copy of the preparole report is also to be sent to the prosecutor of the county from which the inmate was committed at least 30 days, but not more than 45 days, prior to the parole eligibility date. The bill requires that the confidentiality of the contents of a preparole report which are classified as confidential be maintained.

SENATE JUDICIARY COMMITTEE

STATEMENT TO

ASSEMBLY, No. 495

STATE OF NEW JERSEY

DATED: JULY 30, 1984

This bill is intended to strengthen the role of the prosecutor's office in the parole process. Presently, at least 30 days prior to parole consideration, the name of an inmate eligible for parole is sent to the prosecutor's office which prosecuted the offense for which the inmate is currently incarcerated. The bill would increase the notice period to 45 days and require that notice be given to the prosecutor's office of each county in which the inmate had previously committed a crime.

The bill would also require that a copy of the preparole report on an inmate being considered for parole be sent to the prosecutor's office of the county from which the inmate was committed at least 30 days prior to parole consideration. The bill provides that material contained in a preparole report which has been classified as confidential shall be maintained as confidential and shall not be disclosed to any unauthorized person.

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

November 19, 1984

ASSEMBLY BILL NO. 495 (OCR)

To the General Assembly:

Pursuant to Article V, Section 1, Paragraph 14 of the Constitution, I herewith return Assembly Bill No. 495 (OCR) with my objections, for reconsideration.

The purpose of this bill is to amend N.J.S.A. 30:4-123.45 to provide that parole consideration lists and parole eligibility lists shall be forwarded to the prosecutor's office of each county in which the inmate had previously committed a crime 45 days prior to parole consideration. In addition, this bill amends N.J.S.A. 30:4-123.54 to provide that at least 30 days, but not more than 45 days prior to the parole eligibility date of each adult inmate, the report from the correctional facility in which the inmate is housed shall be sent by certified mail by the parole board to the prosecutor's office of the county from which the inmate was committed. The confidentiality of the contents in a confidentially classified report shall be maintained and shall not be disclosed to any person who is not authorized to receive a report or review a copy of the report.

Although the intent of this legislation is to strengthen the role of the prosecutor's office in parole decisions by extending notification requirements and mandating that the parole board forward preparole reports to all prosecutors, I believe the intent would not be met by this proposal. Prosecutors have always been involved in the parole process either by virtue of their participation in sentencing or their input to the parole board at parole eligibility. Presently, parole eligibility lists are forwarded to all appropriate prosecutor's offices, sentencing courts, the Attorney General, criminal justice agencies and news organizations throughout the State. While notification lists require numerous man-hours to prepare, there is little doubt that they perform a valuable function. There is no need to amend the statute to require public notification to be sent to the prosecutors in each county from which each inmate has previously committed a crime. A complete list indicating the names of each inmate to be considered for parole, the crimes for which he is incarcerated and the counties from which he is sentenced are sent to every prosecutor's office throughout the State.

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

2

I also question the usefulness of forwarding the institutional files to the prosecutors of every inmate being considered for parole. These reports represent only a single source of documentation for the board. They have monitored the inmate from initial incarceration and keep the record open for additional information that develops between initial consideration and eligibility. This latter information would not be available to prosecutors under this proposal. The real challenge lies in developing the support of the prosecutors in bringing additional information to the board's attention. The prosecutor should be a partner with the board in the sentencing process and in developing relevant new information not available to the parole board in determining an inmate's suitability for release. While I encourage a review of preparole reports by prosecutors, I believe that it would make more sense to limit the submission of reports to specific cases requested by the prosecutors rather than subject the Department of Corrections and the parole board to a costly and unnecessary paper chase. Both the parole board and the Prosecutor's Association have indicated that this proposal would be much more manageable. The prosecutors would prefer to be able to request this information on a case-by-case basis rather than receive hundreds of voluminous reports which they would be unable to review.

The State Supreme Court has mandated new guidelines for the participation of interested parties in the parole process and how they can supply relevant evidence bearing on the essential elements of parole. They are now in the process of completing the complicated task of developing procedures that will allow them to do this. These procedures will be reviewed by the board and with a full range of criminal justice agencies, including prosecutors, prior to the formal adoption. These procedures will more adequately address the concerns of this proposal and do so in a fashion most beneficial to both the prosecutors and the board.

I also note that there is no appropriation included in this bill. Six to nine hundred inmates may be considered for parole in any given month. In some cases, inmates will have been committed to sentences from more than one county. The time and cost associated with forwarding these reports will be high. The average report weighs 2.5 pounds, and the cost of mailing one such report by

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

3

certified mail as required in this bill is approximately \$4.54. If only 10,000 reports were mailed a year, the postage alone would be \$45,400. The duplicating costs are many times greater. Additional staff would also need to be provided to gather and reproduce these reports. The overall cost of this bill could easily be between \$250,000 and \$350,000 a year. As I have indicated above, prosecutors should be able to request these files in specific cases, but to automatically forward all files of all inmates being considered for parole to all prosecutors whether the prosecutor has an interest in the case or not is a needless expense. All prosecutors are given a list of all inmates being considered for parole, and if a prosecutor elects to review the file of a particular inmate, I believe he should be able to request to do so. In addition, if this procedure is followed, the files could be delivered by State courier and thus the costs would be less than by using certified mail.

Accordingly, I herewith return Assembly Bill No. 495 (OCR) for reconsideration and recommend that it be amended as follows:

Page 1, Title, Line 2:

DELETE "and" INSERT ", " After "441" INSERT ", and making an appropriation"

Page 1, Section 1, Line 21:

DELETE "45" INSERT "30"

Page 2, Section 1, Line 23:

DELETE "in which the inmate had previously committed a crime"

Page 2, Section 2, Lines 7 to 11D:

After "." on line 7, DELETE remainder of line, delete lines 8-11D in entirety.

Page 3, Section 2, Line 20:

DELETE "b." INSERT "a."

Page 3, Section 2, after Line 26:

INSERT "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

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

4

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."

Page 3, Section 2, Line 27:

DELETE "d." INSERT "e."

Page 3, Section 2, after Line 30:

INSERT "3. There is hereby appropriated \$237,000.00 to the State parole board in the Department of Corrections from the General Fund to effectuate the purposes of this act."

Page 3, Section 3, Line 1:

DELETE "3." INSERT "4."

Respectfully,
/s/ Thomas H. Kean
GOVERNOR

[seal]

Attest:

/s/ W. Cary Edwards
Chief Counsel