

30:4-123.70 to 30:4-123.79

LEGISLATIVE HISTORY CHECKLIST

NJSA: 30:4-123.70 to 30:4-123.79

(Parole--accelerated release date - certain non-violent prisoners)

LAWS OF: 1982

CHAPTER: 112

Bill No.: S1462

Sponsor(s): DiFrancesco

Date Introduced: June 3, 1982

Committee: Assembly: _____

Senate: Institutions, Health and Welfare

Amended during passage: Yes // Substituted for S1558 (not attached since substantially similar to S1462)

Date of Passage: Assembly: Aug. 5, 1982

Senate: July 22, 1982

Date of Approval: Aug. 6, 1982

Following statements are attached if available:

Sponsor statement:	Yes	//
Committee statement:	Assembly	/// No
	Senate	Yes // 6-28-82 & 7-12-82
Fiscal Note:	///	No
Veto Message:	///	No
Message on Signing:	Yes	//

Following were printed:

Reports:	Yes	//
Hearings:	Yes	//

974.90 New Jersey. Office of the Governor.
P959 Prison overcrowding—a plan of action.
1982d April, 1982. Trenton, 1982.
(pp. 8-9)

(over)

SEP

1983

974.90
P959
1982
New Jersey. Legislature. Senate. Institutions,
Health and Welfare Committee.
Public hearing... on overcrowding in state prisons
and county jails, held 2-18-82. Trenton, 1982.

974.90
P959
1981j
New Jersey. Governor's Task Force on Prison Overcrowding.
Report... Dec. 3, 1981. Trenton, 1981.

[SECOND OFFICIAL COPY REPRINT]

SENATE, No. 1462

STATE OF NEW JERSEY

INTRODUCED JUNE 3, 1982

By Senator DiFRANCESCO

Referred to Committee on Institutions, Health and Welfare

AN ACT concerning parole and supplementing P. L. 1979, c. 441 (C. 30:4-123.45 et al.).

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

1 1. As used in this act:
2 a. "Commissioner" means the Commissioner of the Department
3 of Corrections.

4 b. "Correctional facilities" means all institutions operated by the
5 Department of Corrections to which offenders are sentenced as
6 adults and shall include but not be limited to the State Prisons at
7 Trenton, Rahway and Leesburg, the Youth Reception and Correc-
8 tion Center, Yardville, Youth Correctional Institution, Bordentown,
9 Youth Correctional Institution, Annandale, and the Correctional
10 Institution for Women at Clinton.

11 c. "Operational capacity" means the maximum available **per-
12 manent** bedspace in the correctional facilities as determined in
13 section 2.

1 2. a. Within 60 days of the effective date of this act, the com-
2 missioner shall submit to the Governor, for his approval, a deter-
3 mination of the operational capacity of all the correctional
4 facilities, including a determination of the individual correctional
5 facilities. Upon the Governor's approval, the commissioner's deter-
6 mination shall constitute operational capacity as defined in
7 section 1c.

8 b. If the total operational capacity in all of the correctional
9 facilities increases or decreases by more than 50 spaces from the
10 total operational capacity previously established under subsection

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:

***—Senate committee amendment adopted June 28, 1982.**

****—Senate committee amendments adopted July 12, 1982.**

11 a., the commissioner shall act within 20 days of that increase or
 12 decrease according to the procedures set forth in subsection a. to
 13 establish a revised operational capacity.

1 3. The commissioner may request the Governor to declare a state
 2 of emergency within the State's correctional facilities whenever
 3 the commissioner certifies in writing that the total population of
 4 State's correctional facilities has exceeded the total operational
 5 capacity. ***The commissioner shall also immediately notify the
 6 Criminal Disposition Commission of the emergency. The commis-
 7 sioner and the Governor may consult with the commission and
 8 request advisory recommendations.*** The commissioner is re-
 8A quired to find and certify in writing that the request for a declara-
 8B tion of a state of emergency is reasonably necessary and that each
 8C of the following criteria has been satisfied:

9 a. The excess over the operational capacity has resulted in sub-
 10 stantial difficulty in administration of the State's correctional
 11 facilities, to the extent that the safety of the correctional facility
 12 personnel and inmates may be endangered; and

13 b. The commissioner has exhausted all administrative actions
 14 consistent with applicable State laws and rules and regulations
 15 promulgated thereunder, including the transfer of inmates among
 16 institutions, in order to reduce the population of the adult male and
 17 female complexes to the operational capacity. The commissioner
 18 shall include with his written certification to the Governor a state-
 19 ment setting forth the facts substantiating the criteria set forth in
 20 this section; and

21 c. The excess over operational capacity will continue beyond 30
 22 days of the commissioner's request to the Governor for a declara-
 23 tion of the state of emergency; and

24 d. There is an identifiable number of inmates in ***[the prison
 25 population]*** ***correctional facilities*** who would be eligible for
 26 ***[release]*** ***parole acceleration*** under the terms of this act
 27 ***[and whose release would reduce the inmate population to
 28 operational capacity]***.

1 4. If the Governor declares a correctional facilities overcrowding
 2 state of emergency, he may order the acceleration, by up to 90 days,
 3 of the parole release dates ***[which have already been established,
 4 and primary parole eligibility dates determined pursuant to P. L.
 5 1979, c. 441 (C. 30:4-123.45 et seq.), for such persons as he deems
 6 fit]*** ***for persons who have been certified for parole by the parole
 7 board prior to and during the state of emergency and*** who are
 8 incarcerated under final judgments of conviction which commit
 9 those persons to a period of detention in correctional facilities as

10 adults. ***The Parole Board may exempt from acceleration on an*
 11 *individual basis persons for whom the board determines adequate*
 12 *support services do not exist or necessary preparation for release*
 13 *has not been made. A state of emergency declared pursuant to this*
 14 *act shall be for a period of 90 days or less.*** The provisions of this
 15 section shall not, however, apply to any inmate who is serving a
 16 sentence or aggregate sentence, any portion of which includes a
 17 mandatory minimum term, an extended term, a term of life, a
 18 sentence for a crime of the first or second degree, or ***[to any*
 19 *juvenile sentence or to any sentence to the Adult Diagnostic and*
 20 *Treatment Center at Avenel]*** ***criminal sexual contact***.
 21 Acceleration of parole eligibility under this section may not be
 22 ordered more than twice in any calendar year. ***Any acceleration*
 23 *of parole pursuant to this section shall not reduce the aggregate*
 24 *sentence imposed on the inmate or his term of supervision under*
 25 *parole.***

1 5. At any time during a correctional facilities overcrowding
 2 emergency, the Governor may rescind the declaration of emergency
 3 and implementation of any of the provisions of section 4 of this
 4 act^{**}, *provided that the acceleration for parole eligibility of any*
 5 *person who has been certified for parole prior to such rescission*
 6 *shall not be affected***. If at any time during a correctional
 7 facilities overcrowding emergency the population of the correc-
 8 tional facilities is reduced to the operating capacity, the commis-
 9 sioner shall immediately notify the Governor. ***Any provision of*
 10 *the law to the contrary notwithstanding, the state of emergency*
 11 *declared pursuant to this act shall cease where the inmate popula-*
 12 *tion is at or below 90% of the operational capacity.***

1 6. If property of a correctional facility has been destroyed which
 2 may have a relationship to a determination of operational capacity,
 3 the Governor, may issue an order which withholds or limits the
 4 implementation or extent of implementation of any of the pro-
 5 visions of section 4 of this act with respect to any person or class
 6 of persons within any correctional facility at which the destruction
 7 of property has taken place.

1 7. Notwithstanding the provisions of N. J. S. 2C:43-9 to the
 2 contrary, any inmate released under the provisions of this act
 3 who violates the conditions of parole shall be required to serve
 4 in custody a term equal to twice the period by which parole was
 5 accelerated by virtue of a declaration of a correctional facilities
 6 overcrowding state of emergency ***and shall not be eligible for any*
 7 *future acceleration pursuant to this act***. Notwithstanding the
 8 provisions of N. J. S. 2C:44-5 to the contrary, any term of in-

9 incarceration imposed under this section shall be consecutive to any
 10 additional period of incarceration imposed by the parole board or
 11 any additional sentence imposed by the court.

1 8. Nothing contained in this act shall be construed to limit any
 2 existing authority or any subsequently conferred authority of any
 3 official or agency, including the Governor, to deal with a correc-
 4 tional facilities overcrowding emergency or any other emergency
 5 within this State.

1 9. Nothing contained in this act shall be construed to limit any
 2 existing authority of the State Parole Board to set parole release
 3 dates.

1 ****10. Upon notification of certification of parole for any inmate**
 2 **eligible to earn minimum or work credits pursuant to R. S. 30:4-140**
 3 **and R. S. 30:4-92, the Department of Corrections shall certify to**
 4 **the Parole Board all credits earned as of that date and establish**
 5 **the pattern of such credits which the inmate may be expected to**
 6 **earn, under the law establishing such credits. Any change in the**
 7 **pattern shall be reported to the Parole Board immediately. Based**
 8 **upon the credit pattern applicable to the inmate, the Parole Board**
 9 **will compute a projected release date that will serve as an actual**
 10 **release date, provided, however, that the department shall certify**
 11 **to the board at the time of release that the credits have been**
 12 **actually earned.****

1 ****[10.]** **11.** This act shall take effect immediately *and**
 2 ****except for section 7** shall expire two years from the date of**
 3 **enactment* **, provided that if a declaration of emergency exists**
 4 **at the time of the expiration of the act, this act shall remain in**
 5 **effect until the termination of such emergency pursuant to the**
 6 **terms of the act**.**

14 Acceleration of parole eligibility under this section may not be
15 ordered more than twice in any calendar year.

1 5. At any time during a correctional facilities overcrowding
2 emergency, the Governor may rescind the declaration of emergency
3 and implementation of any of the provisions of section 4 of this
4 act. If at any time during a correctional facilities overcrowding
5 emergency the population of the correctional facilities is reduced
6 to the operating capacity, the commissioner shall immediately
7 notify the Governor.

1 6. If property of a correctional facility has been destroyed which
2 may have a relationship to a determination of operational capacity,
3 the Governor, may issue an order which withholds or limits the
4 implementation or extent of implementation of any of the pro-
5 visions of section 4 of this act with respect to any person or class
6 of persons within any correctional facility at which the destruction
7 of property has taken place.

1 7. Notwithstanding the provisions of N. J. S. 2C:43-9 to the
2 contrary, any inmate released under the provisions of this act
3 who violates the conditions of parole shall be required to serve
4 in custody a term equal to twice the period by which parole was
5 accelerated by virtue of a declaration of a correctional facilities
6 overcrowding state of emergency. Notwithstanding the provisions
7 of N. J. S. 2C:44-5 to the contrary, any term of incarceration im-
8 posed under this section shall be consecutive to any additional
9 period of incarceration imposed by the parole board or any addi-
10 tional sentence imposed by the court.

1 8. Nothing contained in this act shall be construed to limit any
2 existing authority or any subsequently conferred authority of any
3 official or agency, including the Governor, to deal with a correc-
4 tional facilities overcrowding emergency or any other emergency
5 within this State.

1 9. Nothing contained in this act shall be construed to limit any
2 existing authority of the State Parole Board to set parole release
3 dates.

1 10. This act shall take effect immediately.

STATEMENT

This bill would provide an emergency mechanism that would permit the acceleration of parole release dates for non-violent prisoners whose parole eligibility has already been established by the Parole Board and whose parole dates have already been fixed. The authority to be conferred by such legislation requires

51462(1982)

authorization by the Governor and the Commissioner of Corrections and is designed to deal with emergency overcrowding situations. If an overcrowding state of emergency is declared, the Parole Board would be requested to identify non-violent prisoners whom they have already investigated and determined to be eligible for parole and whose parole eligibility dates have already been established. The bill authorizes an acceleration of these parole release dates by not more than 90 days. If an inmate is released on parole pursuant to this act, and the inmate violates the conditions of parole, the inmate is required to serve an additional period of incarceration as a penalty for violating the conditions of his early release.

LAW LIBRARY COPY
DO NOT REMOVE

SENATE INSTITUTIONS, HEALTH AND WELFARE
COMMITTEE

STATEMENT TO
SENATE, No. 1462
with Senate committee amendments

STATE OF NEW JERSEY

DATED: JUNE 28, 1982

This bill establishes an emergency mechanism to permit the acceleration of parole release dates for nonviolent prisoners in State institutions whose parole dates have already been fixed.

The committee amended the bill by adding an expiration date for the bill of two years from the date of enactment. The committee released this bill without recommendation.

SENATE INSTITUTIONS, HEALTH AND WELFARE
COMMITTEE

STATEMENT TO

SENATE, No. 1462

[OFFICIAL COPY REPRINT]

with Senate committee amendments

STATE OF NEW JERSEY

DATED: JULY 12, 1982

This bill was released by the committee on June 28, 1982 without recommendation. It was referred back to the committee and amendments were adopted which clarify the role of the parole board determining eligibility for parole, limit the scope of emergency declaration, and clarify the intent that more serious crimes are not eligible for accelerated parole.

The amendments also give the parole board the discretion not to release individuals if, in their judgment the Department of Corrections cannot provide adequate personnel and support services.

The amendments retain the two year sunset provision however, an emergency in effect at the time of the expiration of this act would remain in effect. Moreover, the section which provides for harsher penalties for any one who has been granted an accelerated parole and who violates that parole is exempted from the sunset provision.

FOR IMMEDIATE RELEASE:

CONTACT: DAVID M. DE MAIO

Friday, August 6, 1982

Governor Thomas H. Kean today signed the second of his six legislative initiatives designed to ease prison overcrowding in New Jersey.

S-1462, signed by the Governor and sponsored by Senator Donald T. DiFrancesco (R-Union) and Assemblyman Dean Gallo (R-Morris), grants the Governor the authority to declare a prison overcrowding emergency and to accelerate by 90 days the parole release dates for non-violent offenders already identified as eligible for parole.

The Governor's authority to accelerate release dates is restricted and does not apply to offenders under a term of parole ineligibility, a life sentence, or those convicted of sex offenses or any first or second degree crime.

In addition, the authorization is limited to a period of 90 days and may occur only twice in any given year.

A state of emergency may be declared when the Commissioner of the Department of Corrections gives written certification that the total population in the State's correctional facilities has exceeded their total operating capacity, and where the situation will continue beyond 30 days. The Commissioner would then request the Governor to issue an emergency declaration.

The bill, which contains a two-year "sunset" provision, also provides that the state of emergency will cease when the total inmate population falls to 90 percent or below total operating capacity.

Parole violators under this program will be returned to prison to serve a term twice the period by which their release date was accelerated, plus the balance of their existing sentence and any additional sentence imposed by either a Court or the State Parole Board.

-over-

Today's action follows the mid-July signing of legislation restructuring the parole procedures governing county jail inmates. Those measures will provide for faster parole of non-violent county prisoners.

Four other planks of the Governor's prison overcrowding package remain:

Legislation authorizing the Corrections Commissioner to transfer inmates among State and County correction facilities, a bill to allow judges to extend the county jail sentence they may impose as a condition of probation, and a bill to liberalize bail requirements for petty and disorderly offenses, are each currently before the Legislature. A bill to place before the voters a \$170 million prison construction bond issue, expected to make over 2,000 new beds available in two new prisons, has passed both houses.

#