

FLOOR AMENDMENT STATEMENT: Yes

LEGISLATIVE FISCAL ESTIMATE: Yes

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: Yes

FOLLOWING WERE PRINTED:

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REPORTS: No

HEARINGS: No

NEWSPAPER ARTICLES: No

RH/CL

P.L.2017, CHAPTER 235, *approved September 13, 2017*

Assembly, No. 1661 (*Second Reprint*)

1 AN ACT concerning medical parole and amending and
2 supplementing various parts of the statutory law.

3

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

6

7 1. Section 1 of P.L.1997, c.214 (C.30:4-123.51c) is amended to
8 read as follows:

9 1. a. (1) For the purpose of this section**[,]** :

10 **["terminal]** “Terminal condition, disease or syndrome” means a
11 prognosis by the licensed physicians designated by the
12 Commissioner of Corrections pursuant to subsection b. of this
13 section that an inmate has six months or less to live.

14 “Permanent physical incapacity” means a prognosis that an
15 inmate has a medical condition that renders the inmate permanently
16 unable to perform activities of basic daily living, results in the
17 inmate requiring 24-hour care, and did not exist at the time of
18 sentencing.

19 (2) Except as otherwise provided in paragraph (3) of this
20 subsection, the appropriate board panel **[may]** ¹**[shall]** may¹
21 release on medical parole any inmate serving any sentence of
22 imprisonment who has been diagnosed pursuant to subsection b. of
23 this section as suffering from a terminal condition, disease or
24 syndrome or a permanent physical incapacity and is found by the
25 appropriate board panel to be so debilitated or incapacitated by the
26 terminal condition, disease or syndrome or permanent physical
27 incapacity as to be permanently physically incapable of committing
28 a crime if released on parole and, in the case of a permanent
29 physical incapacity, the conditions under which the inmate would
30 be released would not pose a threat to public safety.

31 The board panel shall state on the record the reasons for granting
32 or denying medical parole.

33 Notwithstanding any provision of P.L.1979, c.441 (C.30:4-
34 123.45 et seq.) to the contrary, the appropriate board panel may
35 release any such inmate at any time during the term of the sentence.
36 An inmate placed on parole pursuant to this section shall be subject
37 to custody, supervision and conditions as provided in section 15 of
38 P.L.1979, c.441 (C.30:4-123.59) and shall be subject to sanctions

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 underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly AAP committee amendments adopted June 20, 2016.

²Senate floor amendments adopted June 29, 2017.

1 for a violation of a condition of parole as provided in sections 16
2 through 21 of P.L.1979, c.441 (C.30:4-123.60 through 30:4-
3 123.65).

4 (3) No inmate serving any sentence for a violation of
5 N.J.S.2C:11-3; N.J.S.2C:11-4; N.J.S.2C:13-1; subsection a. of
6 N.J.S.2C:14-2; N.J.S.2C:15-1 in which the inmate, while in the
7 course of committing the theft, attempted to kill another, or
8 purposely inflicted or attempted to inflict serious bodily injury, or
9 was armed with or used or threatened the immediate use of a deadly
10 weapon; subsection a. of N.J.S.2C:17-1; or N.J.S.2C:24-4 or an
11 attempt to commit any of these offenses shall be eligible for the
12 medical parole authorized under paragraph (2) of this section.

13 b. A medical diagnosis that an inmate is suffering from a
14 terminal condition, disease or syndrome or a permanent physical
15 incapacity, as appropriate, shall be made by two licensed physicians
16 designated by the Commissioner of Corrections. The diagnosis
17 shall include, but not be limited to:

18 (1) a description of the terminal condition, disease or syndrome
19 or the permanent physical incapacity;

20 (2) a prognosis concerning the likelihood of recovery from the
21 terminal condition, disease or syndrome or the permanent physical
22 incapacity;

23 (3) a description of the inmate's physical incapacity; and

24 (4) a description of the type of ongoing treatment that would be
25 required if the inmate were released on medical parole.

26 c. A request for a medical diagnosis to determine whether an
27 inmate is eligible for a medical parole under this section may be
28 submitted to the appropriate board panel by the Commissioner of
29 Corrections, the administrator or superintendent of a correctional
30 facility; the inmate; a member of the inmate's family or the inmate's
31 attorney. The request shall be submitted in a manner and form
32 prescribed by the board.

33 d. At least five working days prior to commencing its review of
34 a request for a medical parole, the appropriate board panel shall
35 notify the appropriate sentencing court; county prosecutor or, if the
36 matter was prosecuted by the Attorney General, the Attorney
37 General; and any victim or member of the family of a victim
38 entitled to notice relating to a parole or the consideration of a parole
39 under the provisions of P.L.1979, c.441 (C.30:4-123.45 et seq.).
40 The notice shall be given in the manner prescribed by the board and
41 shall contain all such information and documentation relating to the
42 medical diagnosis prepared pursuant to subsection b. of this section
43 as the board shall deem appropriate and necessary.

44 Upon receipt of the notice, the sentencing court; county
45 prosecutor or Attorney General, as the case may be; the victim or
46 member of the family of the victim, as the case may be, shall have
47 10 working days to review the notice and submit comments to the
48 appropriate board panel. If a recipient of the notice does not submit

1 comments within that 10-day period following the receipt of the
2 notice, the panel may presume that the recipient does not wish to
3 submit comments and proceed with its consideration of the request
4 for medical parole. Any comments provided by a recipient shall be
5 delivered to the appropriate board panel in the same manner or by
6 the same method as notice was given by the panel to that recipient.

7 The information contained in any notice given by a panel
8 pursuant to this subsection and the contents of any comments
9 submitted by a recipient in response thereto shall be confidential
10 and shall not be disclosed to any person who is not authorized to
11 receive or review that information or those comments.

12 Notice given under the provisions of this subsection shall be in
13 lieu of any other notice of parole consideration required under
14 P.L.1979, c.441 (C.30:4-123.45 et seq.).

15 Nothing in this subsection shall be construed to impair any
16 party's right to be heard pursuant to P.L.1979, c.441 (C.30:4-123.45
17 et seq.).

18 e. The appropriate board panel shall conduct its review of a
19 request for medical parole as expeditiously as possible.

20 The appropriate board panel shall provide written notice of its
21 decision to the sentencing court; the county prosecutor or Attorney
22 General, as the case may be; and any victim or member of a victim's
23 family given notice pursuant to subsection d. of this section.

24 f. Whenever an inmate is granted medical parole pursuant to
25 this section, the appropriate board shall require, as a condition
26 precedent to release, that the inmate's release plan include:

27 (1) identification of a community sponsor;

28 (2) verification of the availability of appropriate medical
29 services sufficient to meet the treatment requirements identified
30 pursuant to paragraph (4) of subsection b. of this section; and

31 (3) verification of appropriate housing which may include, but
32 need not be limited to, a hospital, hospice, nursing home facility or
33 other housing accommodation suitable to the inmate's medical
34 condition, disease or syndrome or permanent physical incapacity.

35 The ²[appropriate board panel] Parole Board² shall ensure that
36 any inmate who is an applicant for medical parole is provided an
37 opportunity to apply, and is provided necessary assistance to
38 complete the application, for medical assistance benefits under the
39 Medicaid program established pursuant to P.L.1968, c.413
40 (C.30:4D-1 et seq.) prior to any determination of ineligibility by the
41 board panel as a result of the inability to verify the availability of
42 appropriate medical services, as required pursuant to paragraph (2)
43 of this subsection.

44 g. In addition to any conditions imposed pursuant to section 15
45 of P.L.1979, c.441 (C.30:4-123.59), as a condition of release on
46 medical parole, the appropriate board panel may require an inmate
47 to submit to periodic medical diagnoses by a licensed physician.

1 h. If, after review of a medical diagnosis required under the
2 provisions of subsection g. of this section, the appropriate board
3 panel determines that a parolee released on medical parole is no
4 longer so debilitated or incapacitated by a terminal condition,
5 disease or syndrome or by a permanent physical incapacity as to be
6 physically incapable of committing a crime or, in the case of a
7 permanent physical incapacity, the parolee poses a threat to public
8 safety, the parolee shall be returned to confinement in an
9 appropriate facility designated by the Commissioner of Corrections.

10 A decision to return the parolee to confinement pursuant to this
11 subsection shall be rendered only after a hearing by the appropriate
12 board panel or by a hearing officer designated by the chairman of
13 the board. Nothing in this subsection shall be construed to limit the
14 authority of the board, an appropriate board panel or parole officer
15 of the State Parole Board to address a violation of a condition of
16 parole pursuant to sections 16 through 21 of P.L.1979, c.441
17 (C.30:4-123.60 through 30:4-123.65).

18 i. The denial of a request for medical parole or the return of a
19 parolee to confinement under the provisions of subsection h. of this
20 section shall not preclude that inmate from being considered for
21 parole pursuant to subsection a. of section 7 of P.L.1979, c.441
22 (C.30:4-123.51).

23 (cf: P.L.2001, c.79, s.7)

24
25 2. Section 4 of P.L.1979, c.441 (C.30:4-123.48) is amended to
26 read as follows:

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

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

33 c. The chairman of the board shall be the chief executive
34 officer of the board and, after consulting with the board, shall be
35 responsible for designating the time and place of all board
36 meetings, for appointing the board's employees, for organizing,
37 controlling and directing the work of the board and its employees,
38 and for preparation and justification of the board's budget. Only the
39 employees in those titles and positions as are designated by the
40 Civil Service Commission shall serve at the pleasure of the
41 chairman and shall not be subject to the provisions of Title 11A of
42 the New Jersey Statutes. All other employees, including hearing
43 officers, shall be in the career service and subject to the provisions
44 of Title 11A of the New Jersey Statutes. All such career service
45 employees who are employed by the State Parole Board on
46 September 5, 2001, and in the case of hearing officers, those who
47 have been employed by the State Parole Board for a period of at
48 least one year prior to the effective date of P.L.2005, c.344, shall

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

14 d. The board shall promulgate such reasonable rules and
15 regulations, consistent with this act, as may be necessary for the
16 proper discharge of its responsibilities. The chairman shall file
17 such rules and regulations with the Secretary of State. The
18 provisions of the "Administrative Procedure Act," P.L.1968, c.410
19 (C.52:14B-1 et seq.) shall apply to the promulgation of rules and
20 regulations concerning policy and administration, but not to other
21 actions taken under this act, such as parole hearings, parole
22 revocation hearings and review of parole cases. In determination of
23 its rules and regulations concerning policy and administration, the
24 board shall consult the Governor, the Commissioner of Corrections
25 and the Juvenile Justice Commission established pursuant to section
26 2 of P.L.1995, c.284 (C.52:17B-170).

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

32 f. The board shall transmit a report of its work for the
33 preceding fiscal year, including information on the causes and
34 extent of parole recidivism, to the Governor, the Legislature and the
35 Juvenile Justice Commission annually. The report shall include
36 information regarding medical parole including, but not limited to,
37 the number of inmates who applied for medical parole, the number
38 of inmates who were granted medical parole, and the number of
39 inmates who were denied medical parole. The report also may
40 include relevant information on compliance with established time
41 frames in the processing of parole eligibility determinations, the
42 effectiveness of any pertinent legislative or administrative
43 measures, and any recommendations to enhance board operations or
44 to effectuate the purposes of the "Parole Act of 1979," P.L.1979,
45 c.441 (C.30:4-123.45 et al.).

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

1 h. The board shall give notice to the appropriate prosecutor's
2 office and to the committing court prior to the initial consideration
3 of any juvenile inmate for release.
4 (cf: P.L.2008, c.29, s.90)

5
6 3. (New section) Any inmate who is an applicant for medical
7 parole pursuant to the provisions of section 1 of P.L.1997, c.214
8 (C.30:4-123.51c) shall not be denied enrollment into the Medicaid
9 program on the sole basis that the applicant is an inmate in a
10 correctional facility. For an inmate who becomes enrolled in
11 Medicaid while incarcerated in a correctional facility, payments for
12 medical assistance under P.L.1968, c.413 (C.30:4D-1 et seq.) shall
13 commence upon the inmate's release from the correctional facility.

14
15 4. This act shall take effect on the first day of the seventh
16 month after enactment.

17
18
19

20
21 Expands eligibility of inmates for medical parole and requires
22 inmate's enrollment in Medicaid under certain circumstances.

ASSEMBLY, No. 1661

STATE OF NEW JERSEY 217th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2016 SESSION

Sponsored by:

Assemblyman GARY S. SCHAER

District 36 (Bergen and Passaic)

Assemblyman JOE DANIELSEN

District 17 (Middlesex and Somerset)

Assemblyman RONALD S. DANCER

District 12 (Burlington, Middlesex, Monmouth and Ocean)

Assemblywoman SHAVONDA E. SUMTER

District 35 (Bergen and Passaic)

SYNOPSIS

Expands eligibility of inmates for medical parole and requires inmate's enrollment in Medicaid under certain circumstances.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 AN ACT concerning medical parole and amending and
2 supplementing various parts of the statutory law.

3

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5 of New Jersey:

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7 1. Section 1 of P.L.1997, c.214 (C.30:4-123.51c) is amended to
8 read as follows:

9 1. a. (1) For the purpose of this section **[,]** :

10 **["terminal"]** “Terminal condition, disease or syndrome” means a
11 prognosis by the licensed physicians designated by the
12 Commissioner of Corrections pursuant to subsection b. of this
13 section that an inmate has six months or less to live.

14 “Permanent physical incapacity” means a prognosis that an
15 inmate has a medical condition that renders the inmate permanently
16 unable to perform activities of basic daily living, results in the
17 inmate requiring 24-hour care, and did not exist at the time of
18 sentencing.

19 (2) Except as otherwise provided in paragraph (3) of this
20 subsection, the appropriate board panel **[may]** shall release on
21 medical parole any inmate serving any sentence of imprisonment
22 who has been diagnosed pursuant to subsection b. of this section as
23 suffering from a terminal condition, disease or syndrome or a
24 permanent physical incapacity and is found by the appropriate
25 board panel to be so debilitated or incapacitated by the terminal
26 condition, disease or syndrome or permanent physical incapacity as
27 to be permanently physically incapable of committing a crime if
28 released on parole and, in the case of a permanent physical
29 incapacity, the conditions under which the inmate would be released
30 would not pose a threat to public safety.

31 The board panel shall state on the record the reasons for granting
32 or denying medical parole.

33 Notwithstanding any provision of P.L.1979, c.441 (C.30:4-
34 123.45 et seq.) to the contrary, the appropriate board panel may
35 release any such inmate at any time during the term of the sentence.
36 An inmate placed on parole pursuant to this section shall be subject
37 to custody, supervision and conditions as provided in section 15 of
38 P.L.1979, c.441 (C.30:4-123.59) and shall be subject to sanctions
39 for a violation of a condition of parole as provided in sections 16
40 through 21 of P.L.1979, c.441 (C.30:4-123.60 through 30:4-
41 123.65).

42 (3) No inmate serving any sentence for a violation of
43 N.J.S.2C:11-3; N.J.S.2C:11-4; N.J.S.2C:13-1; subsection a. of
44 N.J.S.2C:14-2; N.J.S.2C:15-1 in which the inmate, while in the

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 underlined thus is new matter.

1 course of committing the theft, attempted to kill another, or
2 purposely inflicted or attempted to inflict serious bodily injury, or
3 was armed with or used or threatened the immediate use of a deadly
4 weapon; subsection a. of N.J.S.2C:17-1; or N.J.S.2C:24-4 or an
5 attempt to commit any of these offenses shall be eligible for the
6 medical parole authorized under paragraph (2) of this section.

7 b. A medical diagnosis that an inmate is suffering from a
8 terminal condition, disease or syndrome or a permanent physical
9 incapacity, as appropriate, shall be made by two licensed physicians
10 designated by the Commissioner of Corrections. The diagnosis
11 shall include, but not be limited to:

12 (1) a description of the terminal condition, disease or syndrome
13 or the permanent physical incapacity;

14 (2) a prognosis concerning the likelihood of recovery from the
15 terminal condition, disease or syndrome or the permanent physical
16 incapacity;

17 (3) a description of the inmate's physical incapacity; and

18 (4) a description of the type of ongoing treatment that would be
19 required if the inmate were released on medical parole.

20 c. A request for a medical diagnosis to determine whether an
21 inmate is eligible for a medical parole under this section may be
22 submitted to the appropriate board panel by the Commissioner of
23 Corrections, the administrator or superintendent of a correctional
24 facility; the inmate; a member of the inmate's family or the inmate's
25 attorney. The request shall be submitted in a manner and form
26 prescribed by the board.

27 d. At least five working days prior to commencing its review of
28 a request for a medical parole, the appropriate board panel shall
29 notify the appropriate sentencing court; county prosecutor or, if the
30 matter was prosecuted by the Attorney General, the Attorney
31 General; and any victim or member of the family of a victim
32 entitled to notice relating to a parole or the consideration of a parole
33 under the provisions of P.L.1979, c.441 (C.30:4-123.45 et seq.).
34 The notice shall be given in the manner prescribed by the board and
35 shall contain all such information and documentation relating to the
36 medical diagnosis prepared pursuant to subsection b. of this section
37 as the board shall deem appropriate and necessary.

38 Upon receipt of the notice, the sentencing court; county
39 prosecutor or Attorney General, as the case may be; the victim or
40 member of the family of the victim, as the case may be, shall have
41 10 working days to review the notice and submit comments to the
42 appropriate board panel. If a recipient of the notice does not submit
43 comments within that 10-day period following the receipt of the
44 notice, the panel may presume that the recipient does not wish to
45 submit comments and proceed with its consideration of the request
46 for medical parole. Any comments provided by a recipient shall be
47 delivered to the appropriate board panel in the same manner or by
48 the same method as notice was given by the panel to that recipient.

1 The information contained in any notice given by a panel
2 pursuant to this subsection and the contents of any comments
3 submitted by a recipient in response thereto shall be confidential
4 and shall not be disclosed to any person who is not authorized to
5 receive or review that information or those comments.

6 Notice given under the provisions of this subsection shall be in
7 lieu of any other notice of parole consideration required under
8 P.L.1979, c.441 (C.30:4-123.45 et seq.).

9 Nothing in this subsection shall be construed to impair any
10 party's right to be heard pursuant to P.L.1979, c.441 (C.30:4-123.45
11 et seq.).

12 e. The appropriate board panel shall conduct its review of a
13 request for medical parole as expeditiously as possible.

14 The appropriate board panel shall provide written notice of its
15 decision to the sentencing court; the county prosecutor or Attorney
16 General, as the case may be; and any victim or member of a victim's
17 family given notice pursuant to subsection d. of this section.

18 f. Whenever an inmate is granted medical parole pursuant to
19 this section, the appropriate board shall require, as a condition
20 precedent to release, that the inmate's release plan include:

- 21 (1) identification of a community sponsor;
- 22 (2) verification of the availability of appropriate medical
23 services sufficient to meet the treatment requirements identified
24 pursuant to paragraph (4) of subsection b. of this section; and
- 25 (3) verification of appropriate housing which may include, but
26 need not be limited to, a hospital, hospice, nursing home facility or
27 other housing accommodation suitable to the inmate's medical
28 condition, disease or syndrome or permanent physical incapacity.

29 The appropriate board panel shall ensure that any inmate who is
30 an applicant for medical parole is provided an opportunity to apply,
31 and is provided necessary assistance to complete the application, for
32 medical assistance benefits under the Medicaid program established
33 pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.) prior to any
34 determination of ineligibility by the board panel as a result of the
35 inability to verify the availability of appropriate medical services,
36 as required pursuant to paragraph (2) of this subsection.

37 g. In addition to any conditions imposed pursuant to section 15
38 of P.L.1979, c.441 (C.30:4-123.59), as a condition of release on
39 medical parole, the appropriate board panel may require an inmate
40 to submit to periodic medical diagnoses by a licensed physician.

41 h. If, after review of a medical diagnosis required under the
42 provisions of subsection g. of this section, the appropriate board
43 panel determines that a parolee released on medical parole is no
44 longer so debilitated or incapacitated by a terminal condition,
45 disease or syndrome or by a permanent physical incapacity as to be
46 physically incapable of committing a crime or, in the case of a
47 permanent physical incapacity, the parolee poses a threat to public

1 safety, the parolee shall be returned to confinement in an
2 appropriate facility designated by the Commissioner of Corrections.

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4 subsection shall be rendered only after a hearing by the appropriate
5 board panel or by a hearing officer designated by the chairman of
6 the board. Nothing in this subsection shall be construed to limit the
7 authority of the board, an appropriate board panel or parole officer
8 of the State Parole Board to address a violation of a condition of
9 parole pursuant to sections 16 through 21 of P.L.1979, c.441
10 (C.30:4-123.60 through 30:4-123.65).

11 i. The denial of a request for medical parole or the return of a
12 parolee to confinement under the provisions of subsection h. of this
13 section shall not preclude that inmate from being considered for
14 parole pursuant to subsection a. of section 7 of P.L.1979, c.441
15 (C.30:4-123.51).

16 (cf: P.L.2001, c.79, s.7)

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
21 be 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
24 vote of a quorum of the appropriate board panel established
25 pursuant to this section.

26 c. The chairman of the board shall be the chief executive
27 officer of the board and, after consulting with the board, shall be
28 responsible for designating the time and place of all board
29 meetings, for appointing the board's employees, for organizing,
30 controlling and directing the work of the board and its employees,
31 and for preparation and justification of the board's budget. Only the
32 employees in those titles and positions as are designated by the
33 Civil Service Commission shall serve at the pleasure of the
34 chairman and shall not be subject to the provisions of Title 11A of
35 the New Jersey Statutes. All other employees, including hearing
36 officers, shall be in the career service and subject to the provisions
37 of Title 11A of the New Jersey Statutes. All such career service
38 employees who are employed by the State Parole Board on
39 September 5, 2001, and in the case of hearing officers, those who
40 have been employed by the State Parole Board for a period of at
41 least one year prior to the effective date of P.L.2005, c.344, shall
42 have permanent career service status with seniority awarded from
43 the date of their appointments. Parole officers assigned to supervise
44 adult parolees and all supervisory titles associated with the
45 supervision of adult parolees in the parole officer series shall be
46 classified employees subject to the provisions of Title 11A of the
47 New Jersey Statutes. Parole officers assigned to supervise adult
48 parolees and all supervisory titles associated with the supervision of

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

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

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

25 f. The board shall transmit a report of its work for the
26 preceding fiscal year, including information on the causes and
27 extent of parole recidivism, to the Governor, the Legislature and the
28 Juvenile Justice Commission annually. The report shall include
29 information regarding medical parole including, but not limited to,
30 the number of inmates who applied for medical parole, the number
31 of inmates who were granted medical parole, and the number of
32 inmates who were denied medical parole. The report also may
33 include relevant information on compliance with established time
34 frames in the processing of parole eligibility determinations, the
35 effectiveness of any pertinent legislative or administrative
36 measures, and any recommendations to enhance board operations or
37 to effectuate the purposes of the "Parole Act of 1979," P.L.1979,
38 c.441 (C.30:4-123.45 et al.).

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

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

44 (cf: P.L.2008, c.29, s.90)

45

46 3. (New section) Any inmate who is an applicant for medical
47 parole pursuant to the provisions of section 1 of P.L.1997, c.214
48 (C.30:4-123.51c) shall not be denied enrollment into the Medicaid

1 program on the sole basis that the applicant is an inmate in a
2 correctional facility. For an inmate who becomes enrolled in
3 Medicaid while incarcerated in a correctional facility, payments for
4 medical assistance under P.L.1968, c.413 (C.30:4D-1 et seq.) shall
5 commence upon the inmate's release from the correctional facility.
6

7 4. This act shall take effect on the first day of the seventh
8 month after enactment.
9

10
11 STATEMENT
12

13 This bill expands the eligibility of inmates for medical parole
14 and requires the inmate's enrollment in Medicaid under certain
15 circumstances.

16 Under current law, an inmate may be released on medical parole
17 if the inmate is suffering from a "terminal condition, disease, or
18 syndrome," which is defined as a prognosis that the inmate has six
19 months or less to live. In addition, the inmate must be found to be
20 so debilitated or incapacitated by the terminal condition, disease, or
21 syndrome that the inmate is permanently physically incapable of
22 committing a crime if released on parole.

23 This bill expands the eligibility for medical parole by allowing
24 inmates who have a permanent physical incapacity to be released on
25 medical parole, in addition to those suffering from a terminal
26 condition, disease, or syndrome. The bill defines a "permanent
27 physical incapacity" as a medical condition that renders the inmate
28 permanently unable to perform activities of basic daily living,
29 results in the inmate requiring 24-hour care, and did not exist at the
30 time of sentencing. In addition, the bill only allows the release of
31 an inmate on medical parole for a permanent physical incapacity if
32 the board determines that the conditions of the inmate's release
33 would not pose a threat to public safety.

34 The bill requires the board panel to release an inmate on medical
35 parole if the inmate meets the criteria designated under current law
36 and the provisions of this bill. The bill requires the board panel to
37 state on the record the reasons for granting or denying medical
38 parole.

39 Under current law, whenever an inmate is granted medical
40 parole, the parole board panel is required to ensure, as a condition
41 precedent to release, that the inmate's release plan contains certain
42 provisions, including verification that appropriate medical services
43 are available to meet the inmate's treatment requirements. This bill
44 requires the appropriate board panel to ensure that any inmate who
45 is an applicant for medical parole has the opportunity to apply for
46 Medicaid, and is provided necessary assistance to complete the
47 application. The bill directs that an inmate receive this opportunity
48 and assistance before the board panel may make a determination

1 that the inmate is ineligible for release because appropriate medical
2 services, including Medicaid, are unavailable.

3 The bill provides that an applicant for medical parole is not to be
4 denied enrollment into Medicaid on the sole basis that the applicant
5 is an inmate in a correctional facility. If an inmate becomes
6 enrolled in Medicaid while incarcerated, Medicaid payments would
7 begin upon the inmate's release from incarceration.

8 The bill establishes reporting requirements for medical parole.
9 Current law requires the Parole Board to issue an annual report of
10 its work to the Governor, the Legislature, and the Juvenile Justice
11 Commission. The bill requires that the report include the number of
12 inmates who applied for medical parole, the number of inmates who
13 were granted medical parole, and the number of inmates who were
14 denied medical parole.

ASSEMBLY LAW AND PUBLIC SAFETY COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1661

STATE OF NEW JERSEY

DATED: FEBRUARY 4, 2016

The Assembly Law and Public Safety Committee reports favorably on Assembly Bill No. 1661.

Assembly Bill No. 1661 expands the eligibility of inmates for medical parole and requires the inmate's enrollment in Medicaid under certain circumstances.

Under current law, an inmate may be released on medical parole if the inmate is suffering from a "terminal condition, disease, or syndrome," which is defined as a prognosis that the inmate has six months or less to live. In addition, the inmate must be found to be so debilitated or incapacitated by the terminal condition, disease, or syndrome that the inmate is permanently physically incapable of committing a crime if released on parole.

This bill expands the eligibility for medical parole by allowing inmates who have a permanent physical incapacity to be released on medical parole, in addition to those suffering from a terminal condition, disease, or syndrome. The bill defines a "permanent physical incapacity" as a medical condition that renders the inmate permanently unable to perform activities of basic daily living, results in the inmate requiring 24-hour care, and did not exist at the time of sentencing. In addition, the bill only allows the release of an inmate on medical parole for a permanent physical incapacity if the board determines that the conditions of the inmate's release would not pose a threat to public safety.

The bill requires the board panel to release an inmate on medical parole if the inmate meets the criteria designated under current law and the provisions of this bill. The bill requires the board panel to state on the record the reasons for granting or denying medical parole.

Under current law, whenever an inmate is granted medical parole, the parole board panel is required to ensure, as a condition precedent to release, that the inmate's release plan contains certain provisions, including verification that appropriate medical services are available to meet the inmate's treatment requirements. This bill requires the appropriate board panel to ensure that any inmate who is an applicant for medical parole has the opportunity to apply for Medicaid, and is provided necessary assistance to complete the application. The bill directs that an inmate receive this opportunity and assistance before the board panel may make a determination that the inmate is ineligible

for release because appropriate medical services, including Medicaid, are unavailable.

The bill provides that an applicant for medical parole is not to be denied enrollment into Medicaid on the sole basis that the applicant is an inmate in a correctional facility. If an inmate becomes enrolled in Medicaid while incarcerated, Medicaid payments would begin upon the inmate's release from incarceration.

The bill establishes reporting requirements for medical parole. Current law requires the Parole Board to issue an annual report of its work to the Governor, the Legislature, and the Juvenile Justice Commission. The bill requires that the report include the number of inmates who applied for medical parole, the number of inmates who were granted medical parole, and the number of inmates who were denied medical parole.

This bill was pre-filed for introduction in the 2016-2017 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1661

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 20, 2016

The Assembly Appropriations Committee reports favorably Assembly Bill No. 1661, with committee amendments.

As amended, this bill expands the eligibility of inmates for medical parole and requires the inmate's enrollment in Medicaid under certain circumstances.

Under current law, an inmate may be released on medical parole if the inmate is suffering from a "terminal condition, disease, or syndrome," which is defined as a prognosis that the inmate has six months or less to live. In addition, the inmate must be found to be so debilitated or incapacitated by the terminal condition, disease, or syndrome that the inmate is permanently physically incapable of committing a crime if released on parole.

This bill expands the eligibility for medical parole by allowing inmates who have a permanent physical incapacity to be released on medical parole, in addition to those suffering from a terminal condition, disease, or syndrome. The bill defines a "permanent physical incapacity" as a medical condition that renders the inmate permanently unable to perform activities of basic daily living, results in the inmate requiring 24-hour care, and did not exist at the time of sentencing. In addition, the bill only allows the release of an inmate on medical parole for a permanent physical incapacity if the board determines that the conditions of the inmate's release would not pose a threat to public safety.

The bill allows the board panel to release an inmate on medical parole if the inmate meets the criteria designated under current law and the provisions of this amended bill. The bill requires the board panel to state on the record the reasons for granting or denying medical parole.

Under current law, whenever an inmate is granted medical parole, the parole board panel is required to ensure, as a condition precedent to release, that the inmate's release plan contains certain provisions, including verification that appropriate medical services are available to meet the inmate's treatment requirements. This bill requires the appropriate board panel to ensure that any inmate who is an applicant for medical parole has the opportunity to apply for Medicaid, and is

provided necessary assistance to complete the application. The bill directs that an inmate receive this opportunity and assistance before the board panel may make a determination that the inmate is ineligible for release because appropriate medical services, including Medicaid, are unavailable.

The bill provides that an applicant for medical parole is not to be denied enrollment into Medicaid on the sole basis that the applicant is an inmate in a correctional facility. If an inmate becomes enrolled in Medicaid while incarcerated, Medicaid payments will begin upon the inmate's release from incarceration.

The bill establishes reporting requirements for medical parole. Current law requires the Parole Board to issue an annual report of its work to the Governor, the Legislature, and the Juvenile Justice Commission. The bill requires that the report include the number of inmates who applied for medical parole, the number of inmates who were granted medical parole, and the number of inmates who were denied medical parole.

FISCAL IMPACT:

The Office of Legislative Services (OLS) estimates that this bill may result in a minimal, indeterminate expenditure increase for certain administrative costs incurred by the Department of Corrections for determining if an inmate has a permanent physical incapacity. The bill may also result in a minimal, indeterminate expenditure by the State Parole Board in assisting certain inmates in applying for NJ FamilyCare/Medicaid.

The bill may result in increased expenditures for NJ FamilyCare/Medicaid payments for the inmates who are granted medical parole each year. However, any potential State costs will be extremely minimal because of the small number of individuals likely to be affected, and offsetting federal funds.

The bill may result in decreased expenditures by the State for the incarceration and medical costs currently being expended on those individuals who are incarcerated in State prisons.

COMMITTEE AMENDMENTS:

The amendments maintain the Parole Board's discretion in determining whether an inmate should be released on medical parole; as introduced, the bill required the Parole Board to release on medical parole an inmate meeting the criteria designated under current law and the provisions of the bill.

SENATE LAW AND PUBLIC SAFETY COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 1661

STATE OF NEW JERSEY

DATED: NOVEMBER 10, 2016

The Senate Law and Public Safety Committee reports without recommendation Assembly Bill No. 1661 (1R).

As reported by the committee, this bill expands the eligibility of inmates for medical parole and requires the inmate's enrollment in Medicaid under certain circumstances.

Under current law, an inmate may be released on medical parole if the inmate is suffering from a "terminal condition, disease, or syndrome," which is defined as a prognosis that the inmate has six months or less to live. In addition, the inmate is required to be found to be so debilitated or incapacitated by the terminal condition, disease, or syndrome that the inmate is permanently physically incapable of committing a crime if released on parole.

This bill expands the eligibility for medical parole by allowing inmates who have a permanent physical incapacity to be released on medical parole, in addition to those suffering from a terminal condition, disease, or syndrome. The bill defines a "permanent physical incapacity" as a medical condition that renders the inmate permanently unable to perform activities of basic daily living, results in the inmate requiring 24-hour care, and did not exist at the time of sentencing. In addition, the bill only allows the release of an inmate on medical parole for a permanent physical incapacity if the board determines that the conditions of the inmate's release would not pose a threat to public safety.

The bill allows the board panel to release an inmate on medical parole if the inmate meets the criteria designated under current law and the provisions of this bill. The bill requires the board panel to state on the record the reasons for granting or denying medical parole.

Under current law, whenever an inmate is granted medical parole, the parole board panel is required to ensure, as a condition precedent to release, that the inmate's release plan contains certain provisions, including verification that appropriate medical services are available to meet the inmate's treatment requirements. This bill requires the appropriate board panel to ensure that any inmate who is an applicant for medical parole has the opportunity to apply for Medicaid and is provided necessary assistance to complete the application. The bill

requires that an inmate receive this opportunity and assistance before the board panel may make a determination that the inmate is ineligible for release because appropriate medical services, including Medicaid, are unavailable.

The bill provides that an applicant for medical parole is not to be denied enrollment into Medicaid on the sole basis that the applicant is an inmate in a correctional facility. If an inmate becomes enrolled in Medicaid while incarcerated, Medicaid payments will begin upon the inmate's release from incarceration.

Finally, the bill establishes reporting requirements for medical parole. Current law requires the Parole Board to issue an annual report of its work to the Governor, the Legislature, and the Juvenile Justice Commission. The bill requires that the report include the number of inmates who applied for medical parole, the number of inmates who were granted medical parole, and the number of inmates who were denied medical parole.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 1661

STATE OF NEW JERSEY

DATED: JUNE 15, 2017

The Senate Budget and Appropriations Committee reports favorably Assembly Bill No. 1661 (1R).

This bill expands the eligibility of inmates for medical parole and requires the inmate's enrollment in Medicaid under certain circumstances.

Under current law, an inmate may be released on medical parole if the inmate is suffering from a "terminal condition, disease, or syndrome," which is defined as a prognosis that the inmate has six months or less to live. In addition, the inmate is required to be found to be so debilitated or incapacitated by the terminal condition, disease, or syndrome that the inmate is permanently physically incapable of committing a crime if released on parole.

This bill expands the eligibility for medical parole by allowing inmates who have a permanent physical incapacity to be released on medical parole, in addition to those suffering from a terminal condition, disease, or syndrome. The bill defines a "permanent physical incapacity" as a medical condition that renders the inmate permanently unable to perform activities of basic daily living, results in the inmate requiring 24-hour care, and did not exist at the time of sentencing. In addition, the bill only allows the release of an inmate on medical parole for a permanent physical incapacity if the board determines that the conditions of the inmate's release would not pose a threat to public safety.

The bill allows the board panel to release an inmate on medical parole if the inmate meets the criteria designated under current law and the provisions of this bill. The bill requires the board panel to state on the record the reasons for granting or denying medical parole.

Under current law, whenever an inmate is granted medical parole, the parole board panel is required to ensure, as a condition precedent to release, that the inmate's release plan contains certain provisions, including verification that appropriate medical services are available to meet the inmate's treatment requirements. This bill requires the appropriate board panel to ensure that any inmate who is an applicant for medical parole has the opportunity to apply for Medicaid and is provided necessary assistance to complete the application. The bill requires that an inmate receive this opportunity and assistance before

the board panel may make a determination that the inmate is ineligible for release because appropriate medical services, including Medicaid, are unavailable.

The bill provides that an applicant for medical parole is not to be denied enrollment into Medicaid on the sole basis that the applicant is an inmate in a correctional facility. If an inmate becomes enrolled in Medicaid while incarcerated, Medicaid payments will begin upon the inmate's release from incarceration.

Finally, the bill establishes reporting requirements for medical parole. Current law requires the Parole Board to issue an annual report of its work to the Governor, the Legislature, and the Juvenile Justice Commission. The bill requires that the report include the number of inmates who applied for medical parole, the number of inmates who were granted medical parole, and the number of inmates who were denied medical parole.

As reported, this bill is identical to Senate Bill No. 3217, as also reported by the committee.

FISCAL IMPACT:

In the Legislative Fiscal Estimate for this bill, the Office of Legislative Services (OLS) notes that this bill may result in a minimal, indeterminate expenditure increase for certain administrative costs incurred by the Department of Corrections for determining if an inmate has a "permanent physical incapacity." The bill may also result in a minimal, indeterminate expenditure by the State Parole Board in assisting certain inmates in applying for NJ FamilyCare/Medicaid. The bill may also result in increased expenditures for NJ FamilyCare/Medicaid payments for the inmates who are granted medical parole each year. However, any potential State costs will be extremely minimal because of the small number of individuals likely to be affected, and offsetting federal funds. The bill may result in decreased expenditures by the State for the incarceration and medical costs currently being expended on those individuals who are incarcerated in State prisons. Finally, the OLS estimates that the bill's provision establishing reporting requirements for medical parole should not have a fiscal impact and can be absorbed by the current appropriations dedicated by the Parole Board for creating its annual report of its work and providing that report to the Governor, the Legislature, and the Juvenile Justice Commission.

STATEMENT TO
[First Reprint]
ASSEMBLY, No. 1661

with Senate Floor Amendments
(Proposed by Senator CUNNINGHAM)

ADOPTED: JUNE 29, 2017

Assembly Bill No. 1661 (1R) expands the eligibility of inmates for medical parole and requires the inmate's enrollment in Medicaid under certain circumstances.

The bill requires the appropriate board panel to ensure that any inmate who is an applicant for medical parole has the opportunity to apply for Medicaid, and is provided necessary assistance to complete the application prior to a determination by the board panel that the inmate is ineligible for release because appropriate medical services, including Medicaid, are unavailable.

These Senate amendments clarify that the Parole Board, rather than the appropriate board panel, is to ensure that any inmate who is an applicant for medical parole has the opportunity to apply for Medicaid and is provided necessary assistance to complete the application.

LEGISLATIVE FISCAL ESTIMATE
ASSEMBLY, No. 1661
STATE OF NEW JERSEY
217th LEGISLATURE

DATED: JUNE 7, 2016

SUMMARY

- Synopsis:** Expands eligibility of inmates for medical parole and requires inmate’s enrollment in Medicaid under certain circumstances.
- In Type of Impact:** Minimal, indeterminate net impact.
- Agencies Affected:** Department of Corrections, State Parole Board, Department of Human Services.

Fiscal Impact	<u>Years 1 to 3</u>
State Cost	Minimal, indeterminate net impact.

- The Office of Legislative Services (OLS) estimates that this bill may result in a minimal, indeterminate expenditure increase for certain administrative costs incurred by the Department of Corrections for determining if an inmate has a “permanent physical incapacity.”
- The bill may also result in a minimal, indeterminate expenditure by the State Parole Board in assisting certain inmates in applying for NJ FamilyCare/Medicaid.
- The bill may also result in increased expenditures for NJ FamilyCare/Medicaid payments for the inmates who are granted medical parole each year. However, any potential State costs will be extremely minimal because of the small number of individuals likely to be affected, and offsetting federal funds.
- The bill may result in decreased expenditures by the State for the incarceration and medical costs currently being expended on those individuals who are incarcerated in State prisons.

BILL DESCRIPTION

Assembly Bill No. 1661 of 2016 expands the eligibility of inmates for medical parole and requires the inmate’s enrollment in Medicaid under certain circumstances.

Under current law, an inmate may be released on medical parole if the inmate is suffering from a “terminal condition, disease, or syndrome,” which is defined as a prognosis that the inmate has six months or less to live. In addition, the inmate must be found to be so debilitated or

incapacitated by the terminal condition, disease, or syndrome that the inmate is permanently physically incapable of committing a crime if released on parole.

This bill expands the eligibility for medical parole by allowing inmates who have a permanent physical incapacity to be released on medical parole, in addition to those suffering from a terminal condition, disease, or syndrome. The bill defines a “permanent physical incapacity” as a medical condition that renders the inmate permanently unable to perform activities of basic daily living, results in the inmate requiring 24-hour care, and did not exist at the time of sentencing. In addition, the bill only allows the release of an inmate on medical parole for a permanent physical incapacity if the board determines that the conditions of the inmate’s release would not pose a threat to public safety.

The bill requires the board panel to release an inmate on medical parole if the inmate meets the criteria designated under current law and the provisions of this bill. The bill requires the board panel to state on the record the reasons for granting or denying medical parole.

Under current law, whenever an inmate is granted medical parole, the parole board panel is required to ensure, as a condition precedent to release, that the inmate’s release plan contains certain provisions, including verification that appropriate medical services are available to meet the inmate’s treatment requirements. This bill requires the appropriate board panel to ensure that any inmate who is an applicant for medical parole has the opportunity to apply for Medicaid, and is provided necessary assistance to complete the application. The bill directs that an inmate receive this opportunity and assistance before the board panel may make a determination that the inmate is ineligible for release because appropriate medical services, including Medicaid, are unavailable.

The bill provides that an applicant for medical parole is not to be denied enrollment into Medicaid on the sole basis that the applicant is an inmate in a correctional facility. If an inmate becomes enrolled in Medicaid while incarcerated, Medicaid payments would begin upon the inmate’s release from incarceration.

The bill establishes reporting requirements for medical parole. Current law requires the Parole Board to issue an annual report of its work to the Governor, the Legislature, and the Juvenile Justice Commission. The bill requires that the report include the number of inmates who applied for medical parole, the number of inmates who were granted medical parole, and the number of inmates who were denied medical parole.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS estimates that this bill will have minimal, indeterminate costs to the Department of Corrections, the State Parole Board, and the Department of Human Services. Additionally the bill may result in reduced expenditures by the State Department of Corrections and County Jails as a result of no longer incarcerating or providing medical care to individuals who will be granted medical parole. According to information provided to the OLS, there have been from zero to two medical paroles granted annually since 2010. Although the bill expands the

qualification criteria for medical parole, it is not assumed that the number of medical paroles granted will increase substantially.

Pursuant to this bill, the medical prognosis for an individual to be released on medical parole has been expanded to include a “permanent physical incapacity” which means that the inmate has developed a medical condition which renders the inmate permanently unable to perform activities of basic daily living and in need of 24 hour care. The State Parole Board would now be required to release on medical parole any inmate serving any sentence of imprisonment who has been diagnosed as suffering from a terminal condition, disease, or syndrome of a permanent physical incapacity and is found by a medical diagnosis to be so debilitated or incapacitated by the condition as to not be capable of committing a crime or pose a threat to public safety. The medical diagnosis is made by two licensed physicians designated by the Department of Corrections. The OLS notes that currently there are very few medical paroles granted by the Parole Board, but that the changes in this bill may result in a larger group of individuals who may be eligible for medical parole. This may increase the number of medical reviews which are necessary and increase the costs to the Department of Corrections for these reviews.

The Parole Board is required pursuant to this bill to ensure that individuals who are to be released on medical parole are provided an opportunity to apply, and are provided the necessary assistance, to complete the application for NJ FamilyCare/Medicaid. The cost to provide this assistance will depend upon the extent to which the assistance provided increases relative to the current assistance provided. Without information on the type of assistance to be provided, the OLS cannot determine the cost, but it is likely to be minimal.

The bill may also result in minimal expenditures for the NJ FamilyCare/Medicaid program for the inmates who are granted medical parole each year. If there is an increase in individuals who are granted medical parole, it is possible that most of these individuals will be either newly eligible for NJ FamilyCare/Medicaid or will be renewing former eligibility for the program. The State normally receives a 50 percent federal reimbursement rate for individuals with disabilities who are enrolled in NJ FamilyCare/Medicaid. Without information on the number of individuals who will be eligible for medical parole and then the number of those individuals who will be eligible for NJ FamilyCare/Medicaid, it is not possible for the OLS to determine a cost with any certainty.

This bill may also result in cost savings for the Department of Corrections as the department is currently funding all medical costs for these individuals, as well as the cost to incarcerate the individuals. If the person is granted medical parole, the costs for incarceration and medical care will be shifted to other payers. However, without information on the number of individuals who will be granted medical parole and these individual’s current costs, it is not possible for the OLS to determine the savings that may be attributed to granting them medical parole.

Finally, the OLS estimates that the bill’s provision establishing reporting requirements for medical parole should not have a fiscal impact and can be absorbed by the current appropriations dedicated by the Parole Board for creating its annual report of its work and providing that report to the Governor, the Legislature, and the Juvenile Justice Commission.

Section: Human Services

*Analyst: Robin Ford
Lead Fiscal Analyst*

*Approved: Frank W. Haines III
Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

ASSEMBLY, No. 1661

STATE OF NEW JERSEY 217th LEGISLATURE

DATED: JUNE 28, 2016

SUMMARY

- Synopsis:** Expands eligibility of inmates for medical parole and requires inmate's enrollment in Medicaid under certain circumstances.
- In Type of Impact:** Minimal, indeterminate net impact.
- Agencies Affected:** Department of Corrections, State Parole Board, Department of Human Services.

Fiscal Impact	<u>Years 1 to 3</u>
State Cost	Minimal, indeterminate net impact.

- The Office of Legislative Services (OLS) estimates that this bill may result in a minimal, indeterminate expenditure increase for certain administrative costs incurred by the Department of Corrections for determining if an inmate has a "permanent physical incapacity."
- The bill may also result in a minimal, indeterminate expenditure by the State Parole Board in assisting certain inmates in applying for NJ FamilyCare/Medicaid.
- The bill may also result in increased expenditures for NJ FamilyCare/Medicaid payments for the inmates who are granted medical parole each year. However, any potential State costs will be extremely minimal because of the small number of individuals likely to be affected, and offsetting federal funds.
- The bill may result in decreased expenditures by the State for the incarceration and medical costs currently being expended on those individuals who are incarcerated in State prisons.

BILL DESCRIPTION

Assembly Bill No. 1661 (1R) of 2016 expands the eligibility of inmates for medical parole and requires that an inmate who has applied for medical parole is given the opportunity and assistance to apply for Medicaid.

Under current law, an inmate may be released on medical parole if the inmate is suffering from a “terminal condition, disease, or syndrome,” which is defined as a prognosis that the inmate has six months or less to live. In addition, the inmate must be found to be so debilitated or incapacitated by the terminal condition, disease, or syndrome that the inmate is permanently physically incapable of committing a crime if released on parole.

This bill expands the eligibility for medical parole by allowing inmates who have a permanent physical incapacity to be released on medical parole, in addition to those suffering from a terminal condition, disease, or syndrome. The bill defines a “permanent physical incapacity” as a medical condition that renders the inmate permanently unable to perform activities of basic daily living, results in the inmate requiring 24-hour care, and did not exist at the time of sentencing. In addition, the bill only allows the release of an inmate on medical parole for a permanent physical incapacity if the board determines that the conditions of the inmate’s release would not pose a threat to public safety. The bill requires the board panel to state on the record the reasons for granting or denying medical parole.

Under current law, whenever an inmate is granted medical parole, the parole board panel is required to ensure, as a condition precedent to release, that the inmate’s release plan contains certain provisions, including verification that appropriate medical services are available to meet the inmate’s treatment requirements. This bill requires the appropriate board panel to ensure that any inmate who is an applicant for medical parole has the opportunity to apply for Medicaid, and is provided necessary assistance to complete the application. The bill directs that an inmate receive this opportunity and assistance before the board panel may make a determination that the inmate is ineligible for release because appropriate medical services, including Medicaid, are unavailable.

The bill provides that an applicant for medical parole is not to be denied enrollment into Medicaid on the sole basis that the applicant is an inmate in a correctional facility. If an inmate becomes enrolled in Medicaid while incarcerated, Medicaid payments would begin upon the inmate’s release from incarceration.

The bill establishes reporting requirements for medical parole. Current law requires the Parole Board to issue an annual report of its work to the Governor, the Legislature, and the Juvenile Justice Commission. The bill requires that the report include the number of inmates who applied for medical parole, the number of inmates who were granted medical parole, and the number of inmates who were denied medical parole.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS estimates that this bill will have minimal, indeterminate costs to the Department of Corrections, the State Parole Board, and the Department of Human Services. Additionally the bill may result in reduced expenditures by the State Department of Corrections and County Jails as a result of no longer incarcerating or providing medical care to individuals who will be granted medical parole. According to information provided to the OLS, there have been from zero to two medical paroles granted annually since 2010. Although the bill expands the

qualification criteria for medical parole, it is not assumed that the number of medical paroles granted will increase substantially.

Pursuant to this bill, the medical prognosis for an individual to be released on medical parole has been expanded to include a “permanent physical incapacity” which means that the inmate has developed a medical condition which renders the inmate permanently unable to perform activities of basic daily living and in need of 24 hour care. The medical diagnosis is made by two licensed physicians designated by the Department of Corrections. The OLS notes that currently there are very few medical paroles granted by the Parole Board, but that the changes this bill proposes may result in a larger group of individuals who may be eligible for medical parole. This may increase the number of medical reviews which are necessary and increase the costs to the Department of Corrections for these reviews.

The Parole Board is required pursuant to this bill to ensure that an individual who is an applicant for medical parole is provided an opportunity to apply, and is provided the necessary assistance, to complete the application for NJ FamilyCare/Medicaid. The cost to provide this assistance will depend upon the extent to which the assistance provided increases relative to the current assistance provided. Without information on the type of assistance to be provided, the OLS cannot determine the cost, but it is likely to be minimal.

The bill may also result in minimal expenditures for the NJ FamilyCare/Medicaid program for the inmates who are granted medical parole each year. If there is an increase in individuals who are granted medical parole, it is possible that most of these individuals will be either newly eligible for NJ FamilyCare/Medicaid or will be renewing former eligibility for the program. The State normally receives a 50 percent federal reimbursement rate for individuals with disabilities who are enrolled in NJ FamilyCare/Medicaid. Without information on the number of individuals who will be eligible for medical parole and then the number of those individuals who will be eligible for NJ FamilyCare/Medicaid, it is not possible for the OLS to determine a cost with any certainty.

This bill may also result in cost savings for the Department of Corrections as the department is currently funding all medical costs for these individuals, as well as the cost to incarcerate the individuals. If the person is granted medical parole, the costs for incarceration and medical care will be shifted to other payers. However, without information on the number of individuals who will be granted medical parole and these individual’s current costs, it is not possible for the OLS to determine the savings that may be attributed to granting them medical parole.

Finally, the OLS estimates that the bill’s provision establishing reporting requirements for medical parole should not have a fiscal impact and can be absorbed by the current appropriations dedicated by the Parole Board for creating its annual report of its work and providing that report to the Governor, the Legislature, and the Juvenile Justice Commission.

Section: Human Services

*Analyst: Robin Ford
Lead Fiscal Analyst*

*Approved: Frank W. Haines III
Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

LEGISLATIVE FISCAL ESTIMATE

[Second Reprint]

ASSEMBLY, No. 1661

STATE OF NEW JERSEY 217th LEGISLATURE

DATED: JULY 18, 2017

SUMMARY

- Synopsis:** Expands eligibility of inmates for medical parole and requires inmate's enrollment in Medicaid under certain circumstances.
- Type of Impact:** Indeterminate annual net impact on State General Fund.
- Agencies Affected:** Department of Corrections, State Parole Board, Department of Human Services.

Office of Legislative Services Estimate

Fiscal Impact	<u>Annual</u>
State Cost	Minimal, indeterminate net impact
State Revenue	Minimal increase

- The Office of Legislative Services (OLS) estimates that this bill will produce an indeterminate annual net impact on the State General Fund. The OLS projects all the individual impacts to be minimal based on the expectation that the number of medical parolees will not increase substantially over the current count of zero to two per year.
- The bill may minimally increase certain administrative costs incurred by the Department of Corrections for determining if an inmate has a "permanent physical incapacity."
- The bill may minimally increase State Parole Board expenditures in increasing the number of medical parole applications to be reviewed, the number of medical parolees to be supervised, and in requiring the board to assist certain inmates in applying for NJ FamilyCare/Medicaid.
- The bill may increase NJ FamilyCare/Medicaid expenditures for inmates who will be granted medical parole each year. However, any potential State costs will be minimal because of the small number of individuals likely to be affected and the receipt of partially offsetting federal Medicaid funds.
- The bill may minimally decrease State incarceration expenditures, including medical costs, with every inmate who will be granted medical parole under the bill.

BILL DESCRIPTION

Assembly Bill No. 1661 (2R) of 2016 expands the eligibility of inmates for medical parole and requires that an inmate who has applied for medical parole is given the opportunity and assistance to apply for Medicaid.

Under current law, an inmate may be released on medical parole if the inmate is suffering from a “terminal condition, disease, or syndrome,” which is defined as a prognosis that the inmate has six months or less to live. In addition, the inmate must be found to be so debilitated or incapacitated by the terminal condition, disease, or syndrome that the inmate is permanently physically incapable of committing a crime if released on parole.

This bill expands the eligibility for medical parole to inmates who have a permanent physical incapacity that renders them permanently unable to perform activities of basic daily living, results in the need for 24-hour care, and did not exist at the time of sentencing. In addition, the bill allows medical parole for a permanent physical incapacity only if the State Parole Board determines that the conditions of the inmate’s release would not pose a threat to public safety.

Current law requires the State Parole Board to ensure, as a condition precedent to the release on medical parole, that the inmate’s release plan contains certain provisions, including verification that appropriate medical services are available to meet the inmate’s treatment requirements. This bill requires the State Parole Board to ensure that any inmate who requests medical parole has the opportunity to apply for Medicaid, and is provided necessary assistance to complete the application. The inmate is to receive this opportunity and assistance before the State Parole Board may make a determination that the inmate is ineligible for release because appropriate medical services, including Medicaid, are unavailable.

The bill also provides that an applicant for medical parole is not to be denied enrollment into Medicaid on the sole basis that the applicant is an inmate in a correctional facility. If an inmate becomes enrolled in Medicaid while incarcerated, Medicaid payments would begin upon the inmate’s release from incarceration.

Moreover, the bill establishes reporting requirements for medical parole. Current law requires the State Parole Board to issue an annual report of its work to the Governor, the Legislature, and the Juvenile Justice Commission. The bill requires that the report newly include certain information on the number of inmates who applied for medical parole.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS estimates that this bill will have minimal annual costs to the Department of Corrections, the State Parole Board, and the Department of Human Services. Additionally, the bill may result in minimally reduced annual expenditures by the Department of Corrections as a result of no longer incarcerating and providing medical care to inmates who will be granted medical parole, and a minimal annual State revenue increase in the form of federal reimbursements for medical parolees who will be newly enrolled in the NJ FamilyCare/Medicaid program. The OLS projects all the annual impacts to be minimal, because, according to information provided to the OLS, there have been no more than two medical paroles granted

annually since 2010. Although the bill expands the qualification criteria for medical parole, it is not assumed that the number of medical parolees will increase substantially.

The bill expands the medical prognoses that will qualify an individual to be released on medical parole to include a “permanent physical incapacity,” which means that the inmate has developed a medical condition which renders the inmate permanently unable to perform activities of basic daily living and in need of 24-hour care. The medical diagnosis is to be made by two licensed physicians designated by the Department of Corrections. The OLS notes that the changes this bill proposes may result in a larger group of individuals who may be eligible for medical parole. This may increase the workload of the State Parole Board and the number of medical reviews which are necessary, resulting in increased annual costs to the State Parole Board and the Department of Corrections.

The State Parole Board is required pursuant to this bill to ensure that an applicant for medical parole is provided an opportunity to apply, and is provided the necessary assistance to complete the application, for NJ FamilyCare/Medicaid. The added cost to provide this assistance will depend upon the extent to which the assistance provided increases relative to the current level. Without information on the type of assistance to be provided, the OLS cannot determine the cost, but it is likely to be minimal.

The bill may also result in minimal additional expenditures for the NJ FamilyCare/Medicaid program for the additional inmates who will be granted medical parole each year. If there is an increase in medical parolees, it is possible that most of these individuals will be newly eligible for NJ FamilyCare/Medicaid. The State normally receives a 50 percent federal reimbursement rate for individuals with disabilities who are enrolled in the program. Without information on the number of additional individuals who will be eligible for medical parole and NJ FamilyCare/Medicaid, it is not possible for the OLS to determine the resultant increases in NJ FamilyCare/Medicaid costs and federal cost reimbursements.

This bill may also result in cost savings for the Department of Corrections as the department is currently funding all medical costs for these individuals, as well as the cost of their incarceration. If the person is granted medical parole, the costs for medical care will be shifted to other payers. However, without information on the number of individuals who will be granted medical parole and these individuals’ current incarceration costs, it is not possible for the OLS to determine the savings that may be attributed to granting them medical parole.

Finally, the OLS estimates that the bill’s provision establishing reporting requirements for medical parole should not have a fiscal impact and can be absorbed by the current appropriations dedicated by the State Parole Board for creating its annual report and providing that report to the Governor, the Legislature, and the Juvenile Justice Commission.

Section: Human Services

*Analyst: Robin C. Ford
Lead Fiscal Analyst*

*Approved: Frank W. Haines III
Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

SENATE, No. 3217

STATE OF NEW JERSEY
217th LEGISLATURE

INTRODUCED MAY 18, 2017

Sponsored by:

Senator SANDRA B. CUNNINGHAM

District 31 (Hudson)

SYNOPSIS

Expands eligibility of inmates for medical parole and requires inmate's enrollment in Medicaid under certain circumstances.

CURRENT VERSION OF TEXT

As introduced.



S3217 CUNNINGHAM

2

1 AN ACT concerning medical parole and amending and
2 supplementing various parts of the statutory law.

3

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

6

7 1. Section 1 of P.L.1997, c.214 (C.30:4-123.51c) is amended to
8 read as follows:

9 1. a. (1) For the purpose of this section**[,]**:

10 **["terminal]** “Terminal condition, disease or syndrome” means a
11 prognosis by the licensed physicians designated by the Commissioner
12 of Corrections pursuant to subsection b. of this section that an inmate
13 has six months or less to live.

14 “Permanent physical incapacity” means a prognosis that an inmate
15 has a medical condition that renders the inmate permanently unable to
16 perform activities of basic daily living, results in the inmate requiring
17 24-hour care, and did not exist at the time of sentencing.

18 (2) Except as otherwise provided in paragraph (3) of this
19 subsection, the appropriate board panel may release on medical parole
20 any inmate serving any sentence of imprisonment who has been
21 diagnosed pursuant to subsection b. of this section as suffering from a
22 terminal condition, disease or syndrome or a permanent physical
23 incapacity and is found by the appropriate board panel to be so
24 debilitated or incapacitated by the terminal condition, disease or
25 syndrome or permanent physical incapacity as to be permanently
26 physically incapable of committing a crime if released on parole and,
27 in the case of a permanent physical incapacity, the conditions under
28 which the inmate would be released would not pose a threat to public
29 safety.

30 The board panel shall state on the record the reasons for granting
31 or denying medical parole.

32 Notwithstanding any provision of P.L.1979, c.441 (C.30:4-123.45
33 et seq.) to the contrary, the appropriate board panel may release any
34 such inmate at any time during the term of the sentence. An inmate
35 placed on parole pursuant to this section shall be subject to custody,
36 supervision and conditions as provided in section 15 of P.L.1979,
37 c.441 (C.30:4-123.59) and shall be subject to sanctions for a violation
38 of a condition of parole as provided in sections 16 through 21 of
39 P.L.1979, c.441 (C.30:4-123.60 through 30:4-123.65).

40 (3) No inmate serving any sentence for a violation of N.J.S.2C:11-
41 3; N.J.S.2C:11-4; N.J.S.2C:13-1; subsection a. of N.J.S.2C:14-2;
42 N.J.S.2C:15-1 in which the inmate, while in the course of committing
43 the theft, attempted to kill another, or purposely inflicted or attempted
44 to inflict serious bodily injury, or was armed with or used or
45 threatened the immediate use of a deadly weapon; subsection a. of

**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 underlined thus is new matter.

1 N.J.S.2C:17-1; or N.J.S.2C:24-4 or an attempt to commit any of these
2 offenses shall be eligible for the medical parole authorized under
3 paragraph (2) of this section.

4 b. A medical diagnosis that an inmate is suffering from a terminal
5 condition, disease or syndrome or a permanent physical incapacity, as
6 appropriate, shall be made by two licensed physicians designated by
7 the Commissioner of Corrections. The diagnosis shall include, but not
8 be limited to:

9 (1) a description of the terminal condition, disease or syndrome or
10 the permanent physical incapacity;

11 (2) a prognosis concerning the likelihood of recovery from the
12 terminal condition, disease or syndrome or the permanent physical
13 incapacity;

14 (3) a description of the inmate's physical incapacity; and

15 (4) a description of the type of ongoing treatment that would be
16 required if the inmate were released on medical parole.

17 c. A request for a medical diagnosis to determine whether an
18 inmate is eligible for a medical parole under this section may be
19 submitted to the appropriate board panel by the Commissioner of
20 Corrections, the administrator or superintendent of a correctional
21 facility; the inmate; a member of the inmate's family or the inmate's
22 attorney. The request shall be submitted in a manner and form
23 prescribed by the board.

24 d. At least five working days prior to commencing its review of a
25 request for a medical parole, the appropriate board panel shall notify
26 the appropriate sentencing court; county prosecutor or, if the matter
27 was prosecuted by the Attorney General, the Attorney General; and
28 any victim or member of the family of a victim entitled to notice
29 relating to a parole or the consideration of a parole under the
30 provisions of P.L.1979, c.441 (C.30:4-123.45 et seq.). The notice shall
31 be given in the manner prescribed by the board and shall contain all
32 such information and documentation relating to the medical diagnosis
33 prepared pursuant to subsection b. of this section as the board shall
34 deem appropriate and necessary.

35 Upon receipt of the notice, the sentencing court; county prosecutor
36 or Attorney General, as the case may be; the victim or member of the
37 family of the victim, as the case may be, shall have 10 working days to
38 review the notice and submit comments to the appropriate board panel.
39 If a recipient of the notice does not submit comments within that 10-
40 day period following the receipt of the notice, the panel may presume
41 that the recipient does not wish to submit comments and proceed with
42 its consideration of the request for medical parole. Any comments
43 provided by a recipient shall be delivered to the appropriate board
44 panel in the same manner or by the same method as notice was given
45 by the panel to that recipient.

46 The information contained in any notice given by a panel pursuant
47 to this subsection and the contents of any comments submitted by a
48 recipient in response thereto shall be confidential and shall not be

S3217 CUNNINGHAM

1 disclosed to any person who is not authorized to receive or review that
2 information or those comments.

3 Notice given under the provisions of this subsection shall be in lieu
4 of any other notice of parole consideration required under P.L.1979,
5 c.441 (C.30:4-123.45 et seq.).

6 Nothing in this subsection shall be construed to impair any party's
7 right to be heard pursuant to P.L.1979, c.441 (C.30:4-123.45 et seq.).

8 e. The appropriate board panel shall conduct its review of a
9 request for medical parole as expeditiously as possible.

10 The appropriate board panel shall provide written notice of its
11 decision to the sentencing court; the county prosecutor or Attorney
12 General, as the case may be; and any victim or member of a victim's
13 family given notice pursuant to subsection d. of this section.

14 f. Whenever an inmate is granted medical parole pursuant to this
15 section, the appropriate board shall require, as a condition precedent to
16 release, that the inmate's release plan include:

17 (1) identification of a community sponsor;

18 (2) verification of the availability of appropriate medical services
19 sufficient to meet the treatment requirements identified pursuant to
20 paragraph (4) of subsection b. of this section; and

21 (3) verification of appropriate housing which may include, but
22 need not be limited to, a hospital, hospice, nursing home facility or
23 other housing accommodation suitable to the inmate's medical
24 condition, disease or syndrome or permanent physical incapacity.

25 The appropriate board panel shall ensure that any inmate who is an
26 applicant for medical parole is provided an opportunity to apply, and is
27 provided necessary assistance to complete the application, for medical
28 assistance benefits under the Medicaid program established pursuant to
29 P.L.1968, c.413 (C.30:4D-1 et seq.) prior to any determination of
30 ineligibility by the board panel as a result of the inability to verify the
31 availability of appropriate medical services, as required pursuant to
32 paragraph (2) of this subsection.

33 g. In addition to any conditions imposed pursuant to section 15 of
34 P.L.1979, c.441 (C.30:4-123.59), as a condition of release on medical
35 parole, the appropriate board panel may require an inmate to submit to
36 periodic medical diagnoses by a licensed physician.

37 h. If, after review of a medical diagnosis required under the
38 provisions of subsection g. of this section, the appropriate board panel
39 determines that a parolee released on medical parole is no longer so
40 debilitated or incapacitated by a terminal condition, disease or
41 syndrome or by a permanent physical incapacity as to be physically
42 incapable of committing a crime or, in the case of a permanent
43 physical incapacity, the parolee poses a threat to public safety, the
44 parolee shall be returned to confinement in an appropriate facility
45 designated by the Commissioner of Corrections.

46 A decision to return the parolee to confinement pursuant to this
47 subsection shall be rendered only after a hearing by the appropriate
48 board panel or by a hearing officer designated by the chairman of the

S3217 CUNNINGHAM

1 board. Nothing in this subsection shall be construed to limit the
2 authority of the board, an appropriate board panel or parole officer of
3 the State Parole Board to address a violation of a condition of parole
4 pursuant to sections 16 through 21 of P.L.1979, c.441 (C.30:4-123.60
5 through 30:4-123.65).

6 i. The denial of a request for medical parole or the return of a
7 parolee to confinement under the provisions of subsection h. of this
8 section shall not preclude that inmate from being considered for parole
9 pursuant to subsection a. of section 7 of P.L.1979, c.441 (C.30:4-
10 123.51).

11 (cf: P.L.2001, c.79, s.7)

12

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

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

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

21 c. The chairman of the board shall be the chief executive
22 officer of the board and, after consulting with the board, shall be
23 responsible for designating the time and place of all board
24 meetings, for appointing the board's employees, for organizing,
25 controlling and directing the work of the board and its employees,
26 and for preparation and justification of the board's budget. Only the
27 employees in those titles and positions as are designated by the
28 Civil Service Commission shall serve at the pleasure of the
29 chairman and shall not be subject to the provisions of Title 11A of
30 the New Jersey Statutes. All other employees, including hearing
31 officers, shall be in the career service and subject to the provisions
32 of Title 11A of the New Jersey Statutes. All such career service
33 employees who are employed by the State Parole Board on
34 September 5, 2001, and in the case of hearing officers, those who
35 have been employed by the State Parole Board for a period of at
36 least one year prior to the effective date of P.L.2005, c.344, shall
37 have permanent career service status with seniority awarded from
38 the date of their appointments. Parole officers assigned to supervise
39 adult parolees and all supervisory titles associated with the
40 supervision of adult parolees in the parole officer series shall be
41 classified employees subject to the provisions of Title 11A of the
42 New Jersey Statutes. Parole officers assigned to supervise adult
43 parolees and all supervisory titles associated with the supervision of
44 adult parolees in the parole officer job classification series shall be
45 organizationally assigned to the State Parole Board with a sworn
46 member of the Division of Parole appointed to act as director of
47 parole supervision. The director of parole supervision shall report

S3217 CUNNINGHAM

6

1 directly to the Chairman of the State Parole Board or to such person
2 as the chairman may designate.

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

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

21 f. The board shall transmit a report of its work for the
22 preceding fiscal year, including information on the causes and
23 extent of parole recidivism, to the Governor, the Legislature and the
24 Juvenile Justice Commission annually. The report shall include
25 information regarding medical parole including, but not limited to,
26 the number of inmates who applied for medical parole, the number
27 of inmates who were granted medical parole, and the number of
28 inmates who were denied medical parole. The report also may
29 include relevant information on compliance with established time
30 frames in the processing of parole eligibility determinations, the
31 effectiveness of any pertinent legislative or administrative
32 measures, and any recommendations to enhance board operations or
33 to effectuate the purposes of the "Parole Act of 1979," P.L.1979,
34 c.441 (C.30:4-123.45 et al.).

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

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

40 (cf: P.L.2008, c.29, s.90)

41

42 3. (New section) Any inmate who is an applicant for medical
43 parole pursuant to the provisions of section 1 of P.L.1997, c.214
44 (C.30:4-123.51c) shall not be denied enrollment into the Medicaid
45 program on the sole basis that the applicant is an inmate in a
46 correctional facility. For an inmate who becomes enrolled in
47 Medicaid while incarcerated in a correctional facility, payments for

1 medical assistance under P.L.1968, c.413 (C.30:4D-1 et seq.) shall
2 commence upon the inmate's release from the correctional facility.

3

4 4. This act shall take effect on the first day of the seventh
5 month after enactment.

6

7

8

STATEMENT

9

10 This bill expands the eligibility of inmates for medical parole
11 and requires the inmate's enrollment in Medicaid under certain
12 circumstances.

13 Under current law, an inmate may be released on medical parole
14 if the inmate is suffering from a "terminal condition, disease, or
15 syndrome," which is defined as a prognosis that the inmate has six
16 months or less to live. In addition, the inmate is required to be
17 found to be so debilitated or incapacitated by the terminal
18 condition, disease, or syndrome that the inmate is permanently
19 physically incapable of committing a crime if released on parole.

20 This bill expands the eligibility for medical parole by allowing
21 inmates who have a permanent physical incapacity to be released on
22 medical parole, in addition to those suffering from a terminal
23 condition, disease, or syndrome. The bill defines a "permanent
24 physical incapacity" as a medical condition that renders the inmate
25 permanently unable to perform activities of basic daily living,
26 results in the inmate requiring 24-hour care, and did not exist at the
27 time of sentencing. In addition, the bill only allows the release of an
28 inmate on medical parole for a permanent physical incapacity if the
29 board determines that the conditions of the inmate's release would
30 not pose a threat to public safety.

31 The bill allows the board panel to release an inmate on medical
32 parole if the inmate meets the criteria designated under current law
33 and the provisions of this bill. The bill requires the board panel to
34 state on the record the reasons for granting or denying medical
35 parole.

36 Under current law, whenever an inmate is granted medical
37 parole, the parole board panel is required to ensure, as a condition
38 precedent to release, that the inmate's release plan contains certain
39 provisions, including verification that appropriate medical services
40 are available to meet the inmate's treatment requirements. This bill
41 requires the appropriate board panel to ensure that any inmate who
42 is an applicant for medical parole has the opportunity to apply for
43 Medicaid and is provided necessary assistance to complete the
44 application. The bill requires that an inmate receive this opportunity
45 and assistance before the board panel may make a determination
46 that the inmate is ineligible for release because appropriate medical
47 services, including Medicaid, are unavailable.

S3217 CUNNINGHAM

1 The bill provides that an applicant for medical parole is not to be
2 denied enrollment into Medicaid on the sole basis that the applicant
3 is an inmate in a correctional facility. If an inmate becomes enrolled
4 in Medicaid while incarcerated, Medicaid payments will begin upon
5 the inmate's release from incarceration.

6 Finally, the bill establishes reporting requirements for medical
7 parole. Current law requires the Parole Board to issue an annual
8 report of its work to the Governor, the Legislature, and the Juvenile
9 Justice Commission. The bill requires that the report include the
10 number of inmates who applied for medical parole, the number of
11 inmates who were granted medical parole, and the number of
12 inmates who were denied medical parole

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE, No. 3217

STATE OF NEW JERSEY

DATED: JUNE 15, 2017

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 3217.

This bill expands the eligibility of inmates for medical parole and requires the inmate's enrollment in Medicaid under certain circumstances.

Under current law, an inmate may be released on medical parole if the inmate is suffering from a "terminal condition, disease, or syndrome," which is defined as a prognosis that the inmate has six months or less to live. In addition, the inmate is required to be found to be so debilitated or incapacitated by the terminal condition, disease, or syndrome that the inmate is permanently physically incapable of committing a crime if released on parole.

This bill expands the eligibility for medical parole by allowing inmates who have a permanent physical incapacity to be released on medical parole, in addition to those suffering from a terminal condition, disease, or syndrome. The bill defines a "permanent physical incapacity" as a medical condition that renders the inmate permanently unable to perform activities of basic daily living, results in the inmate requiring 24-hour care, and did not exist at the time of sentencing. In addition, the bill only allows the release of an inmate on medical parole for a permanent physical incapacity if the board determines that the conditions of the inmate's release would not pose a threat to public safety.

The bill allows the board panel to release an inmate on medical parole if the inmate meets the criteria designated under current law and the provisions of this bill. The bill requires the board panel to state on the record the reasons for granting or denying medical parole.

Under current law, whenever an inmate is granted medical parole, the parole board panel is required to ensure, as a condition precedent to release, that the inmate's release plan contains certain provisions, including verification that appropriate medical services are available to meet the inmate's treatment requirements. This bill requires the appropriate board panel to ensure that any inmate who is an applicant for medical parole has the opportunity to apply for Medicaid and is provided necessary assistance to complete the application. The bill requires that an inmate receive this opportunity and assistance before the board panel may make a determination that the inmate is ineligible

for release because appropriate medical services, including Medicaid, are unavailable.

The bill provides that an applicant for medical parole is not to be denied enrollment into Medicaid on the sole basis that the applicant is an inmate in a correctional facility. If an inmate becomes enrolled in Medicaid while incarcerated, Medicaid payments will begin upon the inmate's release from incarceration.

Finally, the bill establishes reporting requirements for medical parole. Current law requires the Parole Board to issue an annual report of its work to the Governor, the Legislature, and the Juvenile Justice Commission. The bill requires that the report include the number of inmates who applied for medical parole, the number of inmates who were granted medical parole, and the number of inmates who were denied medical parole.

As reported, this bill is identical to Assembly Bill No. 1661 (1R), as also reported by the committee.

FISCAL IMPACT:

In the Legislative Fiscal Estimate for the identical bill, the Office of Legislative Services (OLS) notes that this bill may result in a minimal, indeterminate expenditure increase for certain administrative costs incurred by the Department of Corrections for determining if an inmate has a "permanent physical incapacity." The bill may also result in a minimal, indeterminate expenditure by the State Parole Board in assisting certain inmates in applying for NJ FamilyCare/Medicaid. The bill may also result in increased expenditures for NJ FamilyCare/Medicaid payments for the inmates who are granted medical parole each year. However, any potential State costs will be extremely minimal because of the small number of individuals likely to be affected, and offsetting federal funds. The bill may result in decreased expenditures by the State for the incarceration and medical costs currently being expended on those individuals who are incarcerated in State prisons. Finally, the OLS estimates that the bill's provision establishing reporting requirements for medical parole should not have a fiscal impact and can be absorbed by the current appropriations dedicated by the Parole Board for creating its annual report of its work and providing that report to the Governor, the Legislature, and the Juvenile Justice Commission.

STATEMENT TO
SENATE, No. 3217

with Senate Floor Amendments
(Proposed by Senator CUNNINGHAM)

ADOPTED: JUNE 29, 2017

Senate Bill No. 3217 expands the eligibility of inmates for medical parole and requires the inmate's enrollment in Medicaid under certain circumstances.

The bill requires the appropriate board panel to ensure that any inmate who is an applicant for medical parole has the opportunity to apply for Medicaid, and is provided necessary assistance to complete the application prior to a determination by the board panel that the inmate is ineligible for release because appropriate medical services, including Medicaid, are unavailable.

These Senate amendments clarify that the Parole Board, rather than the appropriate board panel, is to ensure that any inmate who is an applicant for medical parole has the opportunity to apply for Medicaid and is provided necessary assistance to complete the application.

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

SENATE, No. 3217 STATE OF NEW JERSEY 217th LEGISLATURE

DATED: JULY 18, 2017

SUMMARY

- Synopsis:** Expands eligibility of inmates for medical parole and requires inmate's enrollment in Medicaid under certain circumstances.
- Type of Impact:** Indeterminate annual net impact on State General Fund.
- Agencies Affected:** Department of Corrections, State Parole Board, Department of Human Services.

Office of Legislative Services Estimate

Fiscal Impact	<u>Annual</u>
State Cost	Minimal, indeterminate net impact
State Revenue	Minimal increase

- The Office of Legislative Services (OLS) estimates that this bill will produce an indeterminate annual net impact on the State General Fund. The OLS projects all the individual impacts to be minimal based on the expectation that the number of medical parolees will not increase substantially over the current count of zero to two per year.
- The bill may minimally increase certain administrative costs incurred by the Department of Corrections for determining if an inmate has a "permanent physical incapacity."
- The bill may minimally increase State Parole Board expenditures in increasing the number of medical parole applications to be reviewed, the number of medical parolees to be supervised, and in requiring the board to assist certain inmates in applying for NJ FamilyCare/Medicaid.
- The bill may increase NJ FamilyCare/Medicaid expenditures for inmates who will be granted medical parole each year. However, any potential State costs will be minimal because of the small number of individuals likely to be affected and the receipt of partially offsetting federal Medicaid funds.
- The bill may minimally decrease State incarceration expenditures, including medical costs, with every inmate who will be granted medical parole under the bill.

BILL DESCRIPTION

Senate Bill No. 3217 (1R) of 2017 expands the eligibility of inmates for medical parole and requires that an inmate who has applied for medical parole is given the opportunity and assistance to apply for Medicaid.

Under current law, an inmate may be released on medical parole if the inmate is suffering from a “terminal condition, disease, or syndrome,” which is defined as a prognosis that the inmate has six months or less to live. In addition, the inmate must be found to be so debilitated or incapacitated by the terminal condition, disease, or syndrome that the inmate is permanently physically incapable of committing a crime if released on parole.

This bill expands the eligibility for medical parole to inmates who have a permanent physical incapacity that renders them permanently unable to perform activities of basic daily living, results in the need for 24-hour care, and did not exist at the time of sentencing. In addition, the bill allows medical parole for a permanent physical incapacity only if the State Parole Board determines that the conditions of the inmate’s release would not pose a threat to public safety.

Current law requires the State Parole Board to ensure, as a condition precedent to the release on medical parole, that the inmate’s release plan contains certain provisions, including verification that appropriate medical services are available to meet the inmate’s treatment requirements. This bill requires the State Parole Board to ensure that any inmate who requests medical parole has the opportunity to apply for Medicaid, and is provided necessary assistance to complete the application. The inmate is to receive this opportunity and assistance before the State Parole Board may make a determination that the inmate is ineligible for release because appropriate medical services, including Medicaid, are unavailable.

The bill also provides that an applicant for medical parole is not to be denied enrollment into Medicaid on the sole basis that the applicant is an inmate in a correctional facility. If an inmate becomes enrolled in Medicaid while incarcerated, Medicaid payments would begin upon the inmate’s release from incarceration.

Moreover, the bill establishes reporting requirements for medical parole. Current law requires the State Parole Board to issue an annual report of its work to the Governor, the Legislature, and the Juvenile Justice Commission. The bill requires that the report newly include certain information on the number of inmates who applied for medical parole.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS estimates that this bill will have minimal annual costs to the Department of Corrections, the State Parole Board, and the Department of Human Services. Additionally, the bill may result in minimally reduced annual expenditures by the Department of Corrections as a result of no longer incarcerating and providing medical care to inmates who will be granted medical parole, and a minimal annual State revenue increase in the form of federal reimbursements for medical parolees who will be newly enrolled in the NJ FamilyCare/Medicaid program. The OLS projects all the annual impacts to be minimal, because, according to information provided to the OLS, there have been no more than two medical paroles granted

annually since 2010. Although the bill expands the qualification criteria for medical parole, it is not assumed that the number of medical parolees will increase substantially.

The bill expands the medical prognoses that will qualify an individual to be released on medical parole to include a “permanent physical incapacity,” which means that the inmate has developed a medical condition which renders the inmate permanently unable to perform activities of basic daily living and in need of 24-hour care. The medical diagnosis is to be made by two licensed physicians designated by the Department of Corrections. The OLS notes that the changes this bill proposes may result in a larger group of individuals who may be eligible for medical parole. This may increase the workload of the State Parole Board and the number of medical reviews which are necessary, resulting in increased annual costs to the State Parole Board and the Department of Corrections.

The State Parole Board is required pursuant to this bill to ensure that an applicant for medical parole is provided an opportunity to apply, and is provided the necessary assistance to complete the application, for NJ FamilyCare/Medicaid. The added cost to provide this assistance will depend upon the extent to which the assistance provided increases relative to the current level. Without information on the type of assistance to be provided, the OLS cannot determine the cost, but it is likely to be minimal.

The bill may also result in minimal additional expenditures for the NJ FamilyCare/Medicaid program for the additional inmates who will be granted medical parole each year. If there is an increase in medical parolees, it is possible that most of these individuals will be newly eligible for NJ FamilyCare/Medicaid. The State normally receives a 50 percent federal reimbursement rate for individuals with disabilities who are enrolled in the program. Without information on the number of additional individuals who will be eligible for medical parole and NJ FamilyCare/Medicaid, it is not possible for the OLS to determine the resultant increases in NJ FamilyCare/Medicaid costs and federal cost reimbursements.

This bill may also result in cost savings for the Department of Corrections as the department is currently funding all medical costs for these individuals, as well as the cost of their incarceration. If the person is granted medical parole, the costs for medical care will be shifted to other payers. However, without information on the number of individuals who will be granted medical parole and these individuals’ current incarceration costs, it is not possible for the OLS to determine the savings that may be attributed to granting them medical parole.

Finally, the OLS estimates that the bill’s provision establishing reporting requirements for medical parole should not have a fiscal impact and can be absorbed by the current appropriations dedicated by the State Parole Board for creating its annual report and providing that report to the Governor, the Legislature, and the Juvenile Justice Commission.

Section: Human Services

*Analyst: Robin C. Ford
Lead Fiscal Analyst*

*Approved: Frank W. Haines III
Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

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S-2512/A-4446 (Madden, Beach/Quijano) - Concerns employee leasing agreements

S-2563/A-4163 (Weinberg, T. Kean/Vainieri Huttle, Lampitt, O'Scanlon, McKnight) - Clarifies DCA rulemaking authority over free-standing residential health care facilities, and prohibits eviction of residents from such facilities, except for good cause

A-1661/S-3217 (Schaer, Danielsen, Dancer, Sumter/Cunningham) - Expands eligibility of inmates for medical parole and requires inmate's enrollment in Medicaid under certain circumstances

ACS for A-2511/SCS for S-2211 (Eustace/Turner) - Requires life insurers to use federal death master file to identify potential matches

A-3433/S-2527 (Greenwald, Jones, Singleton, Webber/Diegnan) - "Uniform Fiduciary Access to Digital Assets Act"; authorizes executor, agent, guardian, or trustee, under certain circumstances, to manage electronic records of decedent, principal, incapacitated person, or trust creator

Press Contact:
Brian Murray
609-777-2600



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Office of the Governor
PO Box 001
Trenton, NJ 08625
609-292-6000