



LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 1998

CHAPTER:73

NJSA:2C:47-5

"Adult Diagnostic and Treatment Center -- Parole"

BILL NO: A2102 (Substituted for S1110)

SPONSOR(S): Heck and Holzapfel

DATE INTRODUCED: May 28, 1998

COMMITTEE:

ASSEMBLY: Law and Public Safety

SENATE: ~~~~

AMENDED DURING PASSAGE:No

DATE OF PASSAGE:

ASSEMBLY: June 18, 1998

SENATE: June 22, 1998

DATE OF APPROVAL: August 12, 1998

THE FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL: Original

A2102

SPONSORS STATEMENT: *Yes* (Begins on page 8 of original bill)

COMMITTEE STATEMENT:

ASSEMBLY: *Yes*

SENATE: *No*

FLOOR AMENDMENT STATEMENTS: *No*

LEGISLATIVE FISCAL ESTIMATE: *No*

S1110

SPONSORS STATEMENT: *Yes* (Begins on page 8 of original bill)

(Bill and Sponsors Statement identical to A2102)

COMMITTEE STATEMENT:

ASSEMBLY: *No*

SENATE: *Yes* (Identical to Assembly Statement for A2102)

FLOOR AMENDMENT STATEMENTS: *No*

LEGISLATIVE FISCAL ESTIMATE: *No*

VETO MESSAGE: *No*

GOVERNOR'S PRESS RELEASE ON SIGNING: *Yes*

THE FOLLOWING WERE PRINTED:

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REPORTS: *No*

HEARINGS: *No*

NEWSPAPER ARTICLES: *No*

ASSEMBLY, No. 2102

STATE OF NEW JERSEY

208th LEGISLATURE

INTRODUCED MAY 28, 1998

Sponsored by:

Assemblywoman ROSE MARIE HECK

District 38 (Bergen)

Assemblyman JAMES W. HOLZAPFEL

District 10 (Monmouth and Ocean)

Co-Sponsored by:

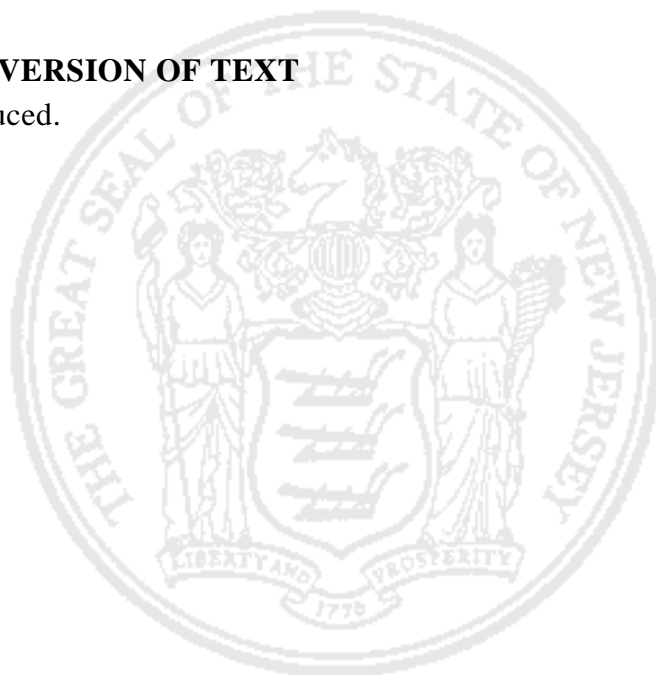
**Assemblyman Thompson, Senators Bassano, Kosco, Bennett, Martin,
Ciesla, Allen and Inverso**

SYNOPSIS

Revises procedures for parole from the Adult Diagnostic and Treatment Center.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/23/1998)

A2102 HECK, HOLZAPFEL

2

1 AN ACT concerning parole from the Adult Diagnostic and Treatment
2 Center, amending N.J.S.2C:47-5 and P.L.1979, c.441 and
3 supplementing Title 2C of the New Jersey Statutes.

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

7
8 1. N.J.S.2C:47-5 is amended to read as follows:
9 2C:47-5. Parole.

10 a. Any **[person]** offender committed to confinement under the
11 terms of this chapter shall **[be released under parole supervision when**
12 **it shall appear to the satisfaction of the State Parole Board, after**
13 **recommendation]** become eligible for parole consideration upon
14 referral to the State Parole Board of the offender's case by a special
15 classification review board appointed by the commissioner **[that such**
16 **person is capable of making an acceptable social adjustment in the**
17 **community]**. The referral shall be based on the determination by the
18 special classification review board that the offender has achieved a
19 satisfactory level of progress in sex offender treatment. The offender
20 shall be released on parole unless the State Parole Board determines
21 that the information supplied in the report filed pursuant to section 10
22 of P.L.1979, c.441 (C. 30:4-123.54) or developed or produced at a
23 hearing held pursuant to section 11 of P.L.1979, c.441 (C.30:4-
24 123.55) indicates by a preponderance of the evidence that the offender
25 has failed to cooperate in his or her own rehabilitation or that there is
26 a reasonable expectation that the offender will violate conditions of
27 parole imposed pursuant to section 15 of P.L.1979, c.441 (C.30:4-
28 123.59) if released on parole at that time.

29 b. **[The Chief Executive Officer of the Adult Diagnostic and**
30 **Treatment Center shall report in writing at least semiannually to the**
31 **special classification review board concerning the physical and**
32 **psychological condition of such person with a recommendation as to**
33 **his continued confinement or consideration for release on parole.]**
34 (Deleted by amendment, P.L. _____, c. _____) (now pending before the
35 Legislature as this bill).

36 c. Any **[person]** offender paroled pursuant to this section shall be
37 subject to the provisions of Title 30 of the Revised Statutes governing
38 parole and the regulations promulgated pursuant thereto.

39 d. When **[a person]** an offender confined under the terms of this
40 chapter has not been paroled in accordance with subsection a. of this
41 section and is scheduled for release, not less than 90 days prior to the
42 date of the **[person's]** offender's scheduled release the Chief

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 Executive Officer shall:

2 (1) Notify the Attorney General and the prosecutor of the county
3 from which the **[person] offender** was committed of the scheduled
4 release~~[:]~~:

5 (2) Provide the Attorney General and the county prosecutor with
6 the officer's opinion as to whether the **[person] offender** may be "in
7 need of involuntary commitment" within the meaning of section 2 of
8 P.L. 1987, c. 116 (C. 30:4-27.2) and as to whether the person may be
9 a "sexually violent predator" within the meaning of P.L. _____, c. _____
10 (C. _____) (now pending before the Legislature as Senate Bill No. 895 or
11 Assembly Bill No. 1919 of 1998) ; and

12 (3) Without regard to classification as confidential pursuant to
13 regulations of the State Parole Board or the Department of
14 Corrections, provide the Attorney General and county prosecutor with
15 all reports, records and assessments relevant to determining whether
16 the **[person] offender** is "in need of involuntary commitment" and
17 whether the person is a "sexually violent predator." All information
18 received shall be deemed confidential and shall be disclosed only as
19 provided in section 4 of P.L.1994, c.134 (C.30:4-82.4).

20 e. Upon receipt of the notice, advice and information required by
21 subsection d. of this section, the Attorney General or county
22 prosecutor shall proceed as provided in section 4 of P.L.1994,c.134
23 (C.30:4-82.4) or P.L. _____, c. _____ (C. _____) (now pending before the
24 Legislature as Senate Bill No. 895 or Assembly Bill No. 1919 of
25 1998), as appropriate.

26 f. **[Notwithstanding any provisions of this section to the contrary,**
27 **a person confined for life at the Adult Diagnostic and Treatment**
28 **Center, for a crime whose circumstances conform to those enumerated**
29 **in paragraph (3) of subsection b. of N.J.S.2C:11-3, shall not be eligible**
30 **for parole or a deduction for commutation or work credits.]** (Deleted
31 by amendment, P.L. _____, c. _____) (now pending before the Legislature as
32 this bill).

33 (cf: P.L.1994, c.134, s.3)

34

35 2. Section 7 of P.L.1979, c.441 (C.30:4-123.51) is amended to
36 read as follows:

37 7. a. Each adult inmate sentenced to a term of incarceration in a
38 county penal institution, or to a specific term of years at the State
39 Prison or the correctional institution for women shall become primarily
40 eligible for parole after having served any judicial or statutory
41 mandatory minimum term, or one-third of the sentence imposed where
42 no mandatory minimum term has been imposed less commutation time
43 for good behavior pursuant to N.J.S.2A:164-24 or R.S.30:4-140 and
44 credits for diligent application to work and other institutional
45 assignments pursuant to P.L.1972, c.115 (C.30:8-28.1 et seq.) or
46 R.S.30:4-92. Consistent with the provisions of the New Jersey Code

1 of Criminal Justice (N.J.S.2C:11-3, 2C:14-6, 2C:43-6, 2C:43-7),
2 commutation and work credits shall not in any way reduce any judicial
3 or statutory mandatory minimum term and such credits accrued shall
4 only be awarded subsequent to the expiration of the term.

5 b. Each adult inmate sentenced to a term of life imprisonment shall
6 become primarily eligible for parole after having served any judicial or
7 statutory mandatory minimum term, or 25 years where no mandatory
8 minimum term has been imposed less commutation time for good
9 behavior and credits for diligent application to work and other
10 institutional assignments. If an inmate sentenced to a specific term or
11 terms of years is eligible for parole on a date later than the date upon
12 which he would be eligible if a life sentence had been imposed, then in
13 such case the inmate shall be eligible for parole after having served 25
14 years, less commutation time for good behavior and credits for diligent
15 application to work and other institutional assignments. Consistent
16 with the provisions of the New Jersey Code of Criminal Justice
17 (N.J.S.2C:11-3, 2C:14-6, 2C:43-6, 2C:43-7), commutation and work
18 credits shall not in any way reduce any judicial or statutory mandatory
19 minimum term and such credits accrued shall only be awarded
20 subsequent to the expiration of the term.

21 c. Each inmate sentenced to a specific term of years pursuant to the
22 “Controlled Dangerous Substances Act,” P.L.1970, c.226 (C.24:21-1
23 through 45) shall become primarily eligible for parole after having
24 served one-third of the sentence imposed less commutation time for
25 good behavior and credits for diligent application to work and other
26 institutional assignments.

27 d. Each adult inmate sentenced to an indeterminate term of years as
28 a young adult offender pursuant to N.J.S.2C:43-5 shall become
29 primarily eligible for parole consideration pursuant to a schedule of
30 primary eligibility dates developed by the board, less adjustment for
31 program participation. In no case shall the board schedule require that
32 the primary parole eligibility date for a young adult offender be greater
33 than the primary parole eligibility date required pursuant to this section
34 for the presumptive term for the crime authorized pursuant to
35 N.J.S.2C:44-1(f).

36 e. Each adult inmate sentenced **【to the Adult Diagnostic and**
37 **Treatment Center, Avenel,】** for an offense specified in N.J.S.2C:47-1
38 shall become primarily eligible for parole **【upon recommendation by**
39 **the special classification review board pursuant to N.J.S.2C:47-5,**
40 **except that no such inmate shall become primarily eligible prior to the**
41 **expiration of any mandatory or fixed minimum term imposed pursuant**
42 **to N.J.S.2C:14-6】** as follows:

43 (1) If the court finds that the offender’s conduct was not
44 characterized by a pattern of repetitive, compulsive behavior or finds
45 that the offender is not amenable to sex offender treatment, or if after
46 sentencing the Department of Corrections in its most recent

1 examination determines that the offender is not amenable to sex
2 offender treatment, the offender shall become primarily eligible for
3 parole after having served any judicial or statutory mandatory
4 minimum term or one third of the sentence imposed where no
5 mandatory minimum term has been imposed. Neither such term shall
6 be reduced by commutation time for good behavior pursuant to
7 R.S.30:4-140 or credits for diligent application to work and other
8 institutional assignments pursuant to R.S.30:4-92.

9 (2) All other offenders shall be eligible for parole pursuant to the
10 provisions of N.J.S.2C:47-5, except no offender shall become
11 primarily eligible for parole prior to the expiration of any judicial or
12 statutory mandatory minimum term.

13 f. Each juvenile inmate committed to an indeterminate term shall
14 be immediately eligible for parole.

15 g. Each adult inmate of a county jail, workhouse or penitentiary
16 shall become primarily eligible for parole upon service of 60 days of
17 his aggregate sentence or as provided for in subsection a. of this
18 section, whichever is greater. Whenever any such inmate's parole
19 eligibility is within six months of the date of such sentence, the judge
20 shall state such eligibility on the record which shall satisfy all public
21 and inmate notice requirements. The chief executive officer of the
22 institution in which county inmates are held shall generate all reports
23 pursuant to subsection d. of section 10 of P.L.1979, c.441 (C.30:4-
24 123.54). The parole board shall have the authority to promulgate time
25 periods applicable to the parole processing of inmates of county penal
26 institutions, except that no inmate may be released prior to the primary
27 eligibility date established by this subsection, unless consented to by
28 the sentencing judge. No inmate sentenced to a specific term of years
29 at the State Prison or the correctional institution for women shall
30 become primarily eligible for parole until service of a full nine months
31 of his aggregate sentence.

32 h. When an inmate is sentenced to more than one term of
33 imprisonment, the primary parole eligibility terms calculated pursuant
34 to this section shall be aggregated by the board for the purpose of
35 determining the primary parole eligibility date, except that no juvenile
36 commitment shall be aggregated with any adult sentence. The board
37 shall promulgate rules and regulations to govern aggregation under
38 this subsection.

39 i. The primary eligibility date shall be computed by a designated
40 representative of the board and made known to the inmate in writing
41 not later than 90 days following the commencement of the sentence.
42 In the case of an inmate sentenced to a county penal institution such
43 notice shall be made pursuant to subsection g. of this section. Each
44 inmate shall be given the opportunity to acknowledge in writing the
45 receipt of such computation. Failure or refusal by the inmate to
46 acknowledge the receipt of such computation shall be recorded by the

1 board but shall not constitute a violation of this subsection.

2 j. Except as provided in this subsection, each inmate sentenced
3 pursuant to N.J.S.2A:113-4 for a term of life imprisonment,
4 N.J.S.2A:164-17 for a fixed minimum and maximum term or
5 N.J.S.2C:1-1(b) shall not be primarily eligible for parole on a date
6 computed pursuant to this section, but shall be primarily eligible on a
7 date computed pursuant to P.L.1948, c.84 (C.30:4-123.1 et seq.),
8 which is continued in effect for this purpose. Inmates classified as
9 second, third or fourth offenders pursuant to section 12 of P.L.1948,
10 c.84 (C.30:4-123.12) shall become primarily eligible for parole after
11 serving one-third, one-half or two-thirds of the maximum sentence
12 imposed, respectively, less in each instance commutation time for good
13 behavior and credits for diligent application to work and other
14 institutional assignments; provided, however, that if the prosecuting
15 attorney or the sentencing court advises the board that the punitive
16 aspects of the sentence imposed on such inmates will not have been
17 fulfilled by the time of parole eligibility calculated pursuant to this
18 subsection, then the inmate shall not become primarily eligible for
19 parole until serving an additional period which shall be one-half of the
20 difference between the primary parole eligibility date calculated
21 pursuant to this subsection and the parole eligibility date calculated
22 pursuant to section 12 of P.L.1948, c.84 (C.30:4-123.12). If the
23 prosecuting attorney or the sentencing court advises the board that the
24 punitive aspects of the sentence have not been fulfilled, such advice
25 need not be supported by reasons and will be deemed conclusive and
26 final. Any such decision shall not be subject to judicial review except
27 to the extent mandated by the New Jersey and United States
28 Constitutions. The board shall, reasonably prior to considering any
29 such case, advise the prosecuting attorney and the sentencing court of
30 all information relevant to such inmate's parole eligibility.

31 k. Notwithstanding any provisions of this section [or N.J.S.2C:47-
32 5] to the contrary, a person sentenced to imprisonment pursuant to
33 paragraph (2) or (3) of subsection b. of N.J.S.2C:11-3 shall not be
34 eligible for parole.

35 l. Notwithstanding the provisions of subsections a. through j. of
36 this section, the appropriate board panel, as provided in section 1 of
37 P.L.1997, c.214 (C.30:4-123.51c), may release an inmate serving a
38 sentence of imprisonment on medical parole at anytime.

39 (cf: P.L.1997, c.214, s.2)

40

41 3. (New section) a. Whenever the parole of an offender committed
42 to confinement under the terms of this chapter is revoked by the State
43 Parole Board, the Department of Corrections shall, within 90 days of
44 the date of revocation of parole, complete a psychological examination
45 of the offender to determine whether the violation of the conditions of
46 parole reflects emotional or behavioral problems as a sex offender that

1 cause the offender to be incapable of making any acceptable social
2 adjustment in the community and, if so, to determine further the
3 offender's amenability to sex offender treatment and, if amenable, the
4 offender's willingness to participate in such treatment. Not more than
5 30 days after the date of the examination, the Department of
6 Corrections shall provide a written report of the results to the State
7 Parole Board.

8 b. The offender shall be confined in the Adult Diagnostic and
9 Treatment Center if the report of the examination conducted pursuant
10 to subsection a. of this section reveals that the offender's violation of
11 the conditions of parole reflects emotional or behavioral problems as
12 a sex offender that cause the offender to be incapable of making any
13 acceptable social adjustment in the community and further reveals that
14 the offender is amenable to sex offender treatment and is willing to
15 participate in such treatment. The offender shall be eligible for parole
16 pursuant to the provisions of subsection a. of N.J.S.2C:47-5.

17 c. The offender shall be confined in a facility designated by the
18 commissioner pursuant to section 2 of P.L.1969, c.22 (C.30:4-91.2)
19 if the report of the examination conducted pursuant to subsection a.
20 of this section reveals that the offender's violation of the conditions of
21 parole reflects emotional or behavioral problems as a sex offender that
22 cause the offender to be incapable of making any acceptable social
23 adjustment in the community and further reveals that the offender is
24 amenable to sex offender treatment, but is not willing to participate in
25 such treatment. The offender shall be eligible for parole pursuant to
26 the provisions of subsection a. of N.J.S.2C:47-5.

27 d. (1) The offender shall be confined in a facility designated by the
28 commissioner pursuant to section 2 of P.L.1969, c.22 (C.30:4-91.2)
29 if the report of the examination conducted pursuant to subsection a.
30 of this section reveals that the offender's violation of the conditions of
31 parole:

32 (a) does not reflect emotional or behavioral problems as a sex
33 offender; or

34 (b) reflects emotional or behavioral problems as a sex offender that
35 cause the offender to be incapable of making any acceptable social
36 adjustment in the community and further reveals that the offender is
37 not amenable to sex offender treatment.

38 (2) An offender confined pursuant to the provisions of paragraph (1)
39 of this subsection shall be eligible for parole pursuant to the provisions
40 of Title 30 of the Revised Statutes. However, a parole eligibility date
41 established by the State Parole Board pursuant to section 20 of
42 P.L.1979, c.441 (C.30:4-123.64) or a future parole eligibility date
43 established by the State Parole Board pursuant to section 12 of
44 P.L.1979, c.441 (C.30:4-123.56) shall not be reduced by commutation
45 time for good behavior pursuant to R.S. 30:4-140 or credits for
46 diligent application to work and other institutional assignments

1 pursuant to R.S.30:4-92.

2 e. Notwithstanding the provisions of R.S.30:4-92, the balance of
3 the sentence of an offender confined pursuant to subsection c. or
4 subparagraph (b) of paragraph (1) of subsection d. of this section shall
5 not be reduced by credits for diligent application to work and other
6 institutional assignments; provided, however, if the offender is at any
7 time transferred to the Adult Diagnostic and Treatment Center
8 pursuant to subsection f. of this section the balance of the sentence
9 shall be reduced by credits for diligent application to work and other
10 institutional assignments earned by the offender during confinement in
11 the Adult Diagnostic and Treatment Center.

12 f. If an offender is confined pursuant to subsection c. or
13 subparagraph (b) of paragraph (1) of subsection d. of this section, the
14 offender may, on a biennial basis, request to be transferred to the
15 Adult Diagnostic and Treatment Center. Within 90 days after
16 receiving a request for a transfer, the Department of Corrections shall
17 conduct a psychological examination. If, upon the completion of a
18 psychological examination, the Department of Corrections determines
19 that the offender is amenable to sex offender treatment and is willing
20 to participate in such treatment, the commissioner shall order the
21 offender to be transferred to the Adult Diagnostic and Treatment
22 Center as soon as practicable. When an offender previously
23 determined not to be amenable to sex offender treatment is transferred
24 to the Adult Diagnostic and Treatment Center, the offender shall be
25 eligible for parole pursuant to the provisions of subsection a. of
26 N.J.S.2C:47-5.

27

28 4. This act shall take effect on the first day of the fourth month
29 after enactment.

30

31

STATEMENT

32

33 This bill amends current law governing the parole of sex offenders
34 from the Adult Diagnostic and Treatment Center (ADTC), New
35 Jersey's correctional and treatment facility for convicted sex offenders.
36 It is part of a two bill package to improve the management and
37 treatment of sex offenders and thereby increase protection of the
38 general public when sex offenders are ultimately released.

39 Under current law, a sex offender sentenced to the ADTC becomes
40 eligible for parole when it appears to the satisfaction of the State
41 Parole Board, upon the recommendation of the Special Classification
42 Review Board, that the offender is "capable of making an acceptable
43 social adjustment in the community." Under the provisions of this bill,
44 the sex offender would become eligible for parole consideration upon
45 referral of his case to the State Parole Board by the Special
46 Classification Review Board, based on a determination that the

1 offender has achieved a satisfactory level of progress in sex offender
2 treatment. The offender would thereafter be released on parole unless
3 the State Parole Board determines that the information contained in
4 the preparole report indicates by a preponderance of the evidence that
5 the offender has failed to cooperate in his own rehabilitation or there
6 is a reasonable expectation that the offender will violate conditions of
7 parole. A repetitive, compulsive sex offender who is determined to be
8 amenable to sex offender treatment, but is not willing to participate in
9 such treatment and who is confined in a correctional facility other than
10 the ADTC also would be subject to these same parole eligibility
11 provisions.

12 A sex offender who was determined not to be repetitive and
13 compulsive or who was determined to be repetitive and compulsive,
14 but not amenable to sex offender treatment, would be subject to the
15 provisions of Title 30 of the Revised Statutes governing parole. The
16 parole eligibility terms of such sex offenders would not be reduced by
17 commutation time for good behavior or by work credits. No sex
18 offender would become primarily eligible for parole prior to the
19 expiration of any judicial or statutory mandatory minimum term.

20 The bill also sets forth specific procedures for revoking the parole
21 of a repetitive, compulsive sex offender. Within 90 days of
22 revocation, the DOC would complete a psychological examination of
23 the offender to determine whether the parole violation reflects
24 emotional or behavioral problems as a sex offender that cause the
25 offender to be incapable of making any acceptable social adjustment
26 in the community. The examination would determine further the
27 offender's amenability to sex offender treatment and willingness to
28 participate in such treatment. As a result of this examination, the
29 offender could be confined in the ADTC. If the offender is amenable
30 to sex offender treatment, but is not willing to participate in such
31 treatment, he would be confined in a facility other than the ADTC. In
32 both cases the offender would be eligible for parole pursuant to the
33 provisions of N.J.S.2C:47-5.

34 If the DOC examination reveals that the offender's violation of the
35 conditions of parole (1) does not reflect emotional or behavioral
36 problems as a sex offender or (2) reflects emotional or behavioral
37 problems as a sex offender that cause the offender to be incapable of
38 making any acceptable social adjustment in the community and further
39 reveals that the offender is not amenable to sex offender treatment, the
40 offender would not be confined in the ADTC and would be eligible for
41 parole pursuant to the provisions of Title 30 of the Revised Statutes.
42 The offender would be permitted to request a transfer to the ADTC
43 and would thereupon be eligible for parole pursuant to N.J.S.2C:47-5.
44 However, a parole eligibility date or a future parole eligibility date
45 established by the State Parole Board would not be reduced by
46 commutation time for good behavior or work credits unless the
47 offender was transferred to the ADTC.

ASSEMBLY, No. 2102

STATE OF NEW JERSEY 208th LEGISLATURE

INTRODUCED MAY 28, 1998

Sponsored by:

Assemblywoman ROSE MARIE HECK

District 38 (Bergen)

Assemblyman JAMES W. HOLZAPFEL

District 10 (Monmouth and Ocean)

Co-Sponsored by:

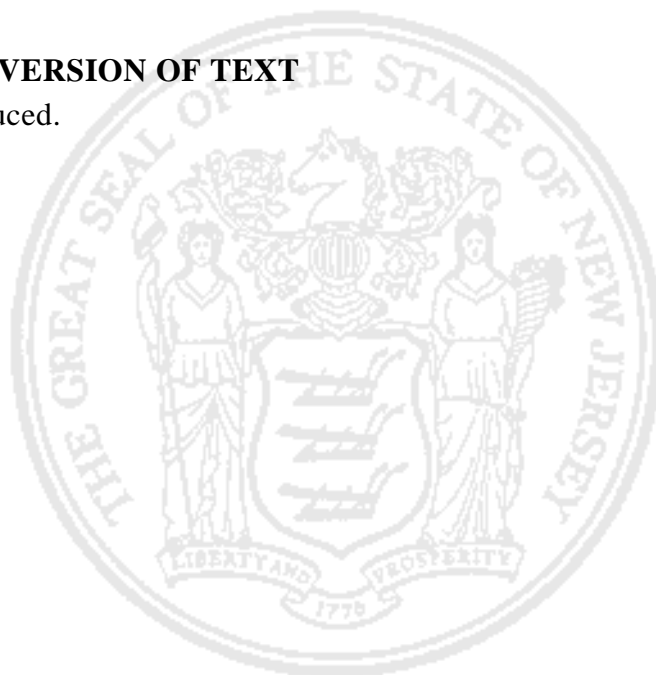
**Assemblyman Thompson, Senators Bassano, Kosco, Bennett, Martin,
Ciesla, Allen and Inverso**

SYNOPSIS

Revises procedures for parole from the Adult Diagnostic and Treatment Center.

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2 Center, amending N.J.S.2C:47-5 and P.L.1979, c.441 and
3 supplementing Title 2C of the New Jersey Statutes.

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

7
8 1. N.J.S.2C:47-5 is amended to read as follows:
9 2C:47-5. Parole.

10 a. Any **[person]** offender committed to confinement under the
11 terms of this chapter shall **[be released under parole supervision when**
12 **it shall appear to the satisfaction of the State Parole Board, after**
13 **recommendation]** become eligible for parole consideration upon
14 referral to the State Parole Board of the offender's case by a special
15 classification review board appointed by the commissioner **[that such**
16 **person is capable of making an acceptable social adjustment in the**
17 **community]**. The referral shall be based on the determination by the
18 special classification review board that the offender has achieved a
19 satisfactory level of progress in sex offender treatment. The offender
20 shall be released on parole unless the State Parole Board determines
21 that the information supplied in the report filed pursuant to section 10
22 of P.L.1979, c.441 (C. 30:4-123.54) or developed or produced at a
23 hearing held pursuant to section 11 of P.L.1979, c.441 (C.30:4-
24 123.55) indicates by a preponderance of the evidence that the offender
25 has failed to cooperate in his or her own rehabilitation or that there is
26 a reasonable expectation that the offender will violate conditions of
27 parole imposed pursuant to section 15 of P.L.1979, c.441 (C.30:4-
28 123.59) if released on parole at that time.

29 b. **[The Chief Executive Officer of the Adult Diagnostic and**
30 **Treatment Center shall report in writing at least semiannually to the**
31 **special classification review board concerning the physical and**
32 **psychological condition of such person with a recommendation as to**
33 **his continued confinement or consideration for release on parole.]**
34 (Deleted by amendment, P.L. _____, c. _____) (now pending before the
35 Legislature as this bill).

36 c. Any **[person]** offender paroled pursuant to this section shall be
37 subject to the provisions of Title 30 of the Revised Statutes governing
38 parole and the regulations promulgated pursuant thereto.

39 d. When **[a person]** an offender confined under the terms of this
40 chapter has not been paroled in accordance with subsection a. of this
41 section and is scheduled for release, not less than 90 days prior to the
42 date of the **[person's]** offender's scheduled release the Chief

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 Executive Officer shall:

2 (1) Notify the Attorney General and the prosecutor of the county
3 from which the **[person] offender** was committed of the scheduled
4 release~~[:]~~:

5 (2) Provide the Attorney General and the county prosecutor with
6 the officer's opinion as to whether the **[person] offender** may be "in
7 need of involuntary commitment" within the meaning of section 2 of
8 P.L. 1987, c. 116 (C. 30:4-27.2) and as to whether the person may be
9 a "sexually violent predator" within the meaning of P.L. _____, c. _____
10 (C. _____) (now pending before the Legislature as Senate Bill No. 895 or
11 Assembly Bill No. 1919 of 1998) ; and

12 (3) Without regard to classification as confidential pursuant to
13 regulations of the State Parole Board or the Department of
14 Corrections, provide the Attorney General and county prosecutor with
15 all reports, records and assessments relevant to determining whether
16 the **[person] offender** is "in need of involuntary commitment" and
17 whether the person is a "sexually violent predator." All information
18 received shall be deemed confidential and shall be disclosed only as
19 provided in section 4 of P.L.1994, c.134 (C.30:4-82.4).

20 e. Upon receipt of the notice, advice and information required by
21 subsection d. of this section, the Attorney General or county
22 prosecutor shall proceed as provided in section 4 of P.L.1994,c.134
23 (C.30:4-82.4) or P.L. _____, c. _____ (C. _____) (now pending before the
24 Legislature as Senate Bill No. 895 or Assembly Bill No. 1919 of
25 1998), as appropriate.

26 f. **[Notwithstanding any provisions of this section to the contrary,**
27 **a person confined for life at the Adult Diagnostic and Treatment**
28 **Center, for a crime whose circumstances conform to those enumerated**
29 **in paragraph (3) of subsection b. of N.J.S.2C:11-3, shall not be eligible**
30 **for parole or a deduction for commutation or work credits.]** (Deleted
31 by amendment, P.L. _____, c. _____) (now pending before the Legislature as
32 this bill).

33 (cf: P.L.1994, c.134, s.3)

34

35 2. Section 7 of P.L.1979, c.441 (C.30:4-123.51) is amended to
36 read as follows:

37 7. a. Each adult inmate sentenced to a term of incarceration in a
38 county penal institution, or to a specific term of years at the State
39 Prison or the correctional institution for women shall become primarily
40 eligible for parole after having served any judicial or statutory
41 mandatory minimum term, or one-third of the sentence imposed where
42 no mandatory minimum term has been imposed less commutation time
43 for good behavior pursuant to N.J.S.2A:164-24 or R.S.30:4-140 and
44 credits for diligent application to work and other institutional
45 assignments pursuant to P.L.1972, c.115 (C.30:8-28.1 et seq.) or
46 R.S.30:4-92. Consistent with the provisions of the New Jersey Code

1 of Criminal Justice (N.J.S.2C:11-3, 2C:14-6, 2C:43-6, 2C:43-7),
2 commutation and work credits shall not in any way reduce any judicial
3 or statutory mandatory minimum term and such credits accrued shall
4 only be awarded subsequent to the expiration of the term.

5 b. Each adult inmate sentenced to a term of life imprisonment shall
6 become primarily eligible for parole after having served any judicial or
7 statutory mandatory minimum term, or 25 years where no mandatory
8 minimum term has been imposed less commutation time for good
9 behavior and credits for diligent application to work and other
10 institutional assignments. If an inmate sentenced to a specific term or
11 terms of years is eligible for parole on a date later than the date upon
12 which he would be eligible if a life sentence had been imposed, then in
13 such case the inmate shall be eligible for parole after having served 25
14 years, less commutation time for good behavior and credits for diligent
15 application to work and other institutional assignments. Consistent
16 with the provisions of the New Jersey Code of Criminal Justice
17 (N.J.S.2C:11-3, 2C:14-6, 2C:43-6, 2C:43-7), commutation and work
18 credits shall not in any way reduce any judicial or statutory mandatory
19 minimum term and such credits accrued shall only be awarded
20 subsequent to the expiration of the term.

21 c. Each inmate sentenced to a specific term of years pursuant to the
22 “Controlled Dangerous Substances Act,” P.L.1970, c.226 (C.24:21-1
23 through 45) shall become primarily eligible for parole after having
24 served one-third of the sentence imposed less commutation time for
25 good behavior and credits for diligent application to work and other
26 institutional assignments.

27 d. Each adult inmate sentenced to an indeterminate term of years as
28 a young adult offender pursuant to N.J.S.2C:43-5 shall become
29 primarily eligible for parole consideration pursuant to a schedule of
30 primary eligibility dates developed by the board, less adjustment for
31 program participation. In no case shall the board schedule require that
32 the primary parole eligibility date for a young adult offender be greater
33 than the primary parole eligibility date required pursuant to this section
34 for the presumptive term for the crime authorized pursuant to
35 N.J.S.2C:44-1(f).

36 e. Each adult inmate sentenced **【to the Adult Diagnostic and**
37 **Treatment Center, Avenel,】** for an offense specified in N.J.S.2C:47-1
38 shall become primarily eligible for parole **【upon recommendation by**
39 **the special classification review board pursuant to N.J.S.2C:47-5,**
40 **except that no such inmate shall become primarily eligible prior to the**
41 **expiration of any mandatory or fixed minimum term imposed pursuant**
42 **to N.J.S.2C:14-6】** as follows:

43 (1) If the court finds that the offender’s conduct was not
44 characterized by a pattern of repetitive, compulsive behavior or finds
45 that the offender is not amenable to sex offender treatment, or if after
46 sentencing the Department of Corrections in its most recent

1 examination determines that the offender is not amenable to sex
2 offender treatment, the offender shall become primarily eligible for
3 parole after having served any judicial or statutory mandatory
4 minimum term or one third of the sentence imposed where no
5 mandatory minimum term has been imposed. Neither such term shall
6 be reduced by commutation time for good behavior pursuant to
7 R.S.30:4-140 or credits for diligent application to work and other
8 institutional assignments pursuant to R.S.30:4-92.

9 (2) All other offenders shall be eligible for parole pursuant to the
10 provisions of N.J.S.2C:47-5, except no offender shall become
11 primarily eligible for parole prior to the expiration of any judicial or
12 statutory mandatory minimum term.

13 f. Each juvenile inmate committed to an indeterminate term shall
14 be immediately eligible for parole.

15 g. Each adult inmate of a county jail, workhouse or penitentiary
16 shall become primarily eligible for parole upon service of 60 days of
17 his aggregate sentence or as provided for in subsection a. of this
18 section, whichever is greater. Whenever any such inmate's parole
19 eligibility is within six months of the date of such sentence, the judge
20 shall state such eligibility on the record which shall satisfy all public
21 and inmate notice requirements. The chief executive officer of the
22 institution in which county inmates are held shall generate all reports
23 pursuant to subsection d. of section 10 of P.L.1979, c.441 (C.30:4-
24 123.54). The parole board shall have the authority to promulgate time
25 periods applicable to the parole processing of inmates of county penal
26 institutions, except that no inmate may be released prior to the primary
27 eligibility date established by this subsection, unless consented to by
28 the sentencing judge. No inmate sentenced to a specific term of years
29 at the State Prison or the correctional institution for women shall
30 become primarily eligible for parole until service of a full nine months
31 of his aggregate sentence.

32 h. When an inmate is sentenced to more than one term of
33 imprisonment, the primary parole eligibility terms calculated pursuant
34 to this section shall be aggregated by the board for the purpose of
35 determining the primary parole eligibility date, except that no juvenile
36 commitment shall be aggregated with any adult sentence. The board
37 shall promulgate rules and regulations to govern aggregation under
38 this subsection.

39 i. The primary eligibility date shall be computed by a designated
40 representative of the board and made known to the inmate in writing
41 not later than 90 days following the commencement of the sentence.
42 In the case of an inmate sentenced to a county penal institution such
43 notice shall be made pursuant to subsection g. of this section. Each
44 inmate shall be given the opportunity to acknowledge in writing the
45 receipt of such computation. Failure or refusal by the inmate to
46 acknowledge the receipt of such computation shall be recorded by the

1 board but shall not constitute a violation of this subsection.

2 j. Except as provided in this subsection, each inmate sentenced
3 pursuant to N.J.S.2A:113-4 for a term of life imprisonment,
4 N.J.S.2A:164-17 for a fixed minimum and maximum term or
5 N.J.S.2C:1-1(b) shall not be primarily eligible for parole on a date
6 computed pursuant to this section, but shall be primarily eligible on a
7 date computed pursuant to P.L.1948, c.84 (C.30:4-123.1 et seq.),
8 which is continued in effect for this purpose. Inmates classified as
9 second, third or fourth offenders pursuant to section 12 of P.L.1948,
10 c.84 (C.30:4-123.12) shall become primarily eligible for parole after
11 serving one-third, one-half or two-thirds of the maximum sentence
12 imposed, respectively, less in each instance commutation time for good
13 behavior and credits for diligent application to work and other
14 institutional assignments; provided, however, that if the prosecuting
15 attorney or the sentencing court advises the board that the punitive
16 aspects of the sentence imposed on such inmates will not have been
17 fulfilled by the time of parole eligibility calculated pursuant to this
18 subsection, then the inmate shall not become primarily eligible for
19 parole until serving an additional period which shall be one-half of the
20 difference between the primary parole eligibility date calculated
21 pursuant to this subsection and the parole eligibility date calculated
22 pursuant to section 12 of P.L.1948, c.84 (C.30:4-123.12). If the
23 prosecuting attorney or the sentencing court advises the board that the
24 punitive aspects of the sentence have not been fulfilled, such advice
25 need not be supported by reasons and will be deemed conclusive and
26 final. Any such decision shall not be subject to judicial review except
27 to the extent mandated by the New Jersey and United States
28 Constitutions. The board shall, reasonably prior to considering any
29 such case, advise the prosecuting attorney and the sentencing court of
30 all information relevant to such inmate's parole eligibility.

31 k. Notwithstanding any provisions of this section [or N.J.S.2C:47-
32 5] to the contrary, a person sentenced to imprisonment pursuant to
33 paragraph (2) or (3) of subsection b. of N.J.S.2C:11-3 shall not be
34 eligible for parole.

35 l. Notwithstanding the provisions of subsections a. through j. of
36 this section, the appropriate board panel, as provided in section 1 of
37 P.L.1997, c.214 (C.30:4-123.51c), may release an inmate serving a
38 sentence of imprisonment on medical parole at anytime.

39 (cf: P.L.1997, c.214, s.2)

40

41 3. (New section) a. Whenever the parole of an offender committed
42 to confinement under the terms of this chapter is revoked by the State
43 Parole Board, the Department of Corrections shall, within 90 days of
44 the date of revocation of parole, complete a psychological examination
45 of the offender to determine whether the violation of the conditions of
46 parole reflects emotional or behavioral problems as a sex offender that

1 cause the offender to be incapable of making any acceptable social
2 adjustment in the community and, if so, to determine further the
3 offender's amenability to sex offender treatment and, if amenable, the
4 offender's willingness to participate in such treatment. Not more than
5 30 days after the date of the examination, the Department of
6 Corrections shall provide a written report of the results to the State
7 Parole Board.

8 b. The offender shall be confined in the Adult Diagnostic and
9 Treatment Center if the report of the examination conducted pursuant
10 to subsection a. of this section reveals that the offender's violation of
11 the conditions of parole reflects emotional or behavioral problems as
12 a sex offender that cause the offender to be incapable of making any
13 acceptable social adjustment in the community and further reveals that
14 the offender is amenable to sex offender treatment and is willing to
15 participate in such treatment. The offender shall be eligible for parole
16 pursuant to the provisions of subsection a. of N.J.S.2C:47-5.

17 c. The offender shall be confined in a facility designated by the
18 commissioner pursuant to section 2 of P.L.1969, c.22 (C.30:4-91.2)
19 if the report of the examination conducted pursuant to subsection a.
20 of this section reveals that the offender's violation of the conditions of
21 parole reflects emotional or behavioral problems as a sex offender that
22 cause the offender to be incapable of making any acceptable social
23 adjustment in the community and further reveals that the offender is
24 amenable to sex offender treatment, but is not willing to participate in
25 such treatment. The offender shall be eligible for parole pursuant to
26 the provisions of subsection a. of N.J.S.2C:47-5.

27 d. (1) The offender shall be confined in a facility designated by the
28 commissioner pursuant to section 2 of P.L.1969, c.22 (C.30:4-91.2)
29 if the report of the examination conducted pursuant to subsection a.
30 of this section reveals that the offender's violation of the conditions of
31 parole:

32 (a) does not reflect emotional or behavioral problems as a sex
33 offender; or

34 (b) reflects emotional or behavioral problems as a sex offender that
35 cause the offender to be incapable of making any acceptable social
36 adjustment in the community and further reveals that the offender is
37 not amenable to sex offender treatment.

38 (2) An offender confined pursuant to the provisions of paragraph (1)
39 of this subsection shall be eligible for parole pursuant to the provisions
40 of Title 30 of the Revised Statutes. However, a parole eligibility date
41 established by the State Parole Board pursuant to section 20 of
42 P.L.1979, c.441 (C.30:4-123.64) or a future parole eligibility date
43 established by the State Parole Board pursuant to section 12 of
44 P.L.1979, c.441 (C.30:4-123.56) shall not be reduced by commutation
45 time for good behavior pursuant to R.S. 30:4-140 or credits for
46 diligent application to work and other institutional assignments

1 pursuant to R.S.30:4-92.

2 e. Notwithstanding the provisions of R.S.30:4-92, the balance of
3 the sentence of an offender confined pursuant to subsection c. or
4 subparagraph (b) of paragraph (1) of subsection d. of this section shall
5 not be reduced by credits for diligent application to work and other
6 institutional assignments; provided, however, if the offender is at any
7 time transferred to the Adult Diagnostic and Treatment Center
8 pursuant to subsection f. of this section the balance of the sentence
9 shall be reduced by credits for diligent application to work and other
10 institutional assignments earned by the offender during confinement in
11 the Adult Diagnostic and Treatment Center.

12 f. If an offender is confined pursuant to subsection c. or
13 subparagraph (b) of paragraph (1) of subsection d. of this section, the
14 offender may, on a biennial basis, request to be transferred to the
15 Adult Diagnostic and Treatment Center. Within 90 days after
16 receiving a request for a transfer, the Department of Corrections shall
17 conduct a psychological examination. If, upon the completion of a
18 psychological examination, the Department of Corrections determines
19 that the offender is amenable to sex offender treatment and is willing
20 to participate in such treatment, the commissioner shall order the
21 offender to be transferred to the Adult Diagnostic and Treatment
22 Center as soon as practicable. When an offender previously
23 determined not to be amenable to sex offender treatment is transferred
24 to the Adult Diagnostic and Treatment Center, the offender shall be
25 eligible for parole pursuant to the provisions of subsection a. of
26 N.J.S.2C:47-5.

27

28 4. This act shall take effect on the first day of the fourth month
29 after enactment.

30

31

STATEMENT

32

33 This bill amends current law governing the parole of sex offenders
34 from the Adult Diagnostic and Treatment Center (ADTC), New
35 Jersey's correctional and treatment facility for convicted sex offenders.
36 It is part of a two bill package to improve the management and
37 treatment of sex offenders and thereby increase protection of the
38 general public when sex offenders are ultimately released.

39 Under current law, a sex offender sentenced to the ADTC becomes
40 eligible for parole when it appears to the satisfaction of the State
41 Parole Board, upon the recommendation of the Special Classification
42 Review Board, that the offender is "capable of making an acceptable
43 social adjustment in the community." Under the provisions of this bill,
44 the sex offender would become eligible for parole consideration upon
45 referral of his case to the State Parole Board by the Special
46 Classification Review Board, based on a determination that the

1 offender has achieved a satisfactory level of progress in sex offender
2 treatment. The offender would thereafter be released on parole unless
3 the State Parole Board determines that the information contained in
4 the preparole report indicates by a preponderance of the evidence that
5 the offender has failed to cooperate in his own rehabilitation or there
6 is a reasonable expectation that the offender will violate conditions of
7 parole. A repetitive, compulsive sex offender who is determined to be
8 amenable to sex offender treatment, but is not willing to participate in
9 such treatment and who is confined in a correctional facility other than
10 the ADTC also would be subject to these same parole eligibility
11 provisions.

12 A sex offender who was determined not to be repetitive and
13 compulsive or who was determined to be repetitive and compulsive,
14 but not amenable to sex offender treatment, would be subject to the
15 provisions of Title 30 of the Revised Statutes governing parole. The
16 parole eligibility terms of such sex offenders would not be reduced by
17 commutation time for good behavior or by work credits. No sex
18 offender would become primarily eligible for parole prior to the
19 expiration of any judicial or statutory mandatory minimum term.

20 The bill also sets forth specific procedures for revoking the parole
21 of a repetitive, compulsive sex offender. Within 90 days of
22 revocation, the DOC would complete a psychological examination of
23 the offender to determine whether the parole violation reflects
24 emotional or behavioral problems as a sex offender that cause the
25 offender to be incapable of making any acceptable social adjustment
26 in the community. The examination would determine further the
27 offender's amenability to sex offender treatment and willingness to
28 participate in such treatment. As a result of this examination, the
29 offender could be confined in the ADTC. If the offender is amenable
30 to sex offender treatment, but is not willing to participate in such
31 treatment, he would be confined in a facility other than the ADTC. In
32 both cases the offender would be eligible for parole pursuant to the
33 provisions of N.J.S.2C:47-5.

34 If the DOC examination reveals that the offender's violation of the
35 conditions of parole (1) does not reflect emotional or behavioral
36 problems as a sex offender or (2) reflects emotional or behavioral
37 problems as a sex offender that cause the offender to be incapable of
38 making any acceptable social adjustment in the community and further
39 reveals that the offender is not amenable to sex offender treatment, the
40 offender would not be confined in the ADTC and would be eligible for
41 parole pursuant to the provisions of Title 30 of the Revised Statutes.
42 The offender would be permitted to request a transfer to the ADTC
43 and would thereupon be eligible for parole pursuant to N.J.S.2C:47-5.
44 However, a parole eligibility date or a future parole eligibility date
45 established by the State Parole Board would not be reduced by
46 commutation time for good behavior or work credits unless the
47 offender was transferred to the ADTC.

ASSEMBLY LAW AND PUBLIC SAFETY COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2102

STATE OF NEW JERSEY

DATED: JUNE 1, 1998

The Assembly Law and Public Safety Committee reports favorably Assembly Bill No. 2102.

This bill amends current law governing the parole of sex offenders from the Adult Diagnostic and Treatment Center (ADTC), New Jersey's correctional and treatment facility for convicted sex offenders. It is part of a two bill package to improve the management and treatment of sex offenders and thereby increase protection of the general public when sex offenders are ultimately released.

Under current law, a sex offender sentenced to the ADTC becomes eligible for parole when it appears to the satisfaction of the State Parole Board, upon the recommendation of the Special Classification Review Board, that the offender is "capable of making an acceptable social adjustment in the community." Under the provisions of this bill, the sex offender would become eligible for parole consideration upon referral of his case to the State Parole Board by the Special Classification Review Board, based on a determination that the offender has achieved a satisfactory level of progress in sex offender treatment. The offender would thereafter be released on parole unless the State Parole Board determines that the information contained in the preparole report indicates by a preponderance of the evidence that the offender has failed to cooperate in his own rehabilitation or there is a reasonable expectation that the offender will violate conditions of parole. A repetitive, compulsive sex offender who is determined to be amenable to sex offender treatment, but is not willing to participate in such treatment and who is confined in a correctional facility other than the ADTC also would be subject to these same parole eligibility provisions.

A sex offender who was determined not to be repetitive and compulsive or who was determined to be repetitive and compulsive, but not amenable to sex offender treatment, would be subject to the provisions of Title 30 of the Revised Statutes governing parole. The parole eligibility terms of such sex offenders would not be reduced by commutation time for good behavior or by work credits. No sex offender would become primarily eligible for parole prior to the expiration of any judicial or statutory mandatory minimum term.

The bill also sets forth specific procedures for revoking the parole of a repetitive, compulsive sex offender. Within 90 days of

revocation, the DOC would complete a psychological examination of the offender to determine whether the parole violation reflects emotional or behavioral problems as a sex offender that cause the offender to be incapable of making any acceptable social adjustment in the community. The examination would determine further the offender's amenability to sex offender treatment and willingness to participate in such treatment. As a result of this examination, the offender could be confined in the ADTC. If the offender is amenable to sex offender treatment, but is not willing to participate in such treatment, he would be confined in a facility other than the ADTC. In both cases the offender would be eligible for parole pursuant to the provisions of N.J.S.2C:47-5.

If the DOC examination reveals that the offender's violation of the conditions of parole (1) does not reflect emotional or behavioral problems as a sex offender or (2) reflects emotional or behavioral problems as a sex offender that cause the offender to be incapable of making any acceptable social adjustment in the community and further reveals that the offender is not amenable to sex offender treatment, the offender would not be confined in the ADTC and would be eligible for parole pursuant to the provisions of Title 30 of the Revised Statutes. The offender would be permitted to request a transfer to the ADTC and would thereupon be eligible for parole pursuant to N.J.S.2C:47-5. However, a parole eligibility date or a future parole eligibility date established by the State Parole Board would not be reduced by commutation time for good behavior or work credits unless the offender was transferred to the ADTC.

SENATE, No. 1110

STATE OF NEW JERSEY

208th LEGISLATURE

INTRODUCED MAY 21, 1998

Sponsored by:

Senator C. LOUIS BASSANO

District 21 (Essex and Union)

Senator LOUIS F. KOSCO

District 38 (Bergen)

Co-Sponsored by:

Senators Bennett, Martin, Ciesla, Allen and Inverso

SYNOPSIS

Revises procedures for parole from the Adult Diagnostic and Treatment Center.

CURRENT VERSION OF TEXT

As introduced.



S1110 BASSANO, KOSCO

2

1 AN ACT concerning parole from the Adult Diagnostic and Treatment
2 Center, amending N.J.S.2C:47-5 and P.L.1979, c.441 and
3 supplementing Title 2C of the New Jersey Statutes.

4

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

7

8 1. N.J.S.2C:47-5 is amended to read as follows:

9 2C:47-5. Parole.

10 a. Any **[person]** offender committed to confinement under the terms
11 of this chapter shall **[be released under parole supervision when it shall**
12 **appear to the satisfaction of the State Parole Board, after**
13 **recommendation]** become eligible for parole consideration upon
14 referral to the State Parole Board of the offender's case by a special
15 classification review board appointed by the commissioner [that such
16 person is capable of making an acceptable social adjustment in the
17 community]. The referral shall be based on the determination by the
18 special classification review board that the offender has achieved a
19 satisfactory level of progress in sex offender treatment. The offender
20 shall be released on parole unless the State Parole Board determines
21 that the information supplied in the report filed pursuant to section 10
22 of P.L.1979, c.441 (C. 30:4-123.54) or developed or produced at a
23 hearing held pursuant to section 11 of P.L.1979, c.441 (C.30:4-123.55)
24 indicates by a preponderance of the evidence that the offender has
25 failed to cooperate in his or her own rehabilitation or that there is a
26 reasonable expectation that the offender will violate conditions of
27 parole imposed pursuant to section 15 of P.L.1979, c.441
28 (C.30:4-123.59) if released on parole at that time.

29 b. **[The Chief Executive Officer of the Adult Diagnostic and**
30 **Treatment Center shall report in writing at least semiannually to the**
31 **special classification review board concerning the physical and**
32 **psychological condition of such person with a recommendation as to**
33 **his continued confinement or consideration for release on parole.]**
34 (Deleted by amendment, P.L. , c.) (now pending before the
35 Legislature as this bill).

36 c. Any **[person]** offender paroled pursuant to this section shall be
37 subject to the provisions of Title 30 of the Revised Statutes governing
38 parole and the regulations promulgated pursuant thereto.

39 d. When **[a person]** an offender confined under the terms of this
40 chapter has not been paroled in accordance with subsection a. of this
41 section and is scheduled for release, not less than 90 days prior to 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 date of the **【person's】** offender's scheduled release the Chief
2 Executive Officer shall:

3 (1) Notify the Attorney General and the prosecutor of the county
4 from which the **【person】** offender was committed of the scheduled
5 release**【:]**;

6 (2) Provide the Attorney General and the county prosecutor with the
7 officer's opinion as to whether the **【person】** offender may be "in need
8 of involuntary commitment" within the meaning of section 2 of
9 P.L. 1987, c.116 (C.30:4-27.2) and as to whether the person may be a
10 "sexually violent predator" within the meaning of P.L. _____, c. _____
11 (C. _____) (now pending before the Legislature as Senate Bill No. 895 or
12 Assembly Bill No. 1919 of 1998); and

13 (3) Without regard to classification as confidential pursuant to
14 regulations of the State Parole Board or the Department of Corrections,
15 provide the Attorney General and county prosecutor with all reports,
16 records and assessments relevant to determining whether the **【person】**
17 offender is "in need of involuntary commitment" and whether the
18 person is a "sexually violent predator." All information received shall
19 be deemed confidential and shall be disclosed only as provided in
20 section 4 of P.L. 1994, c. 134 (C. 30:4-82.4).

21 e. Upon receipt of the notice, advice and information required by
22 subsection d. of this section, the Attorney General or county prosecutor
23 shall proceed as provided in section 4 of P.L. 1994,c.134 (C. 30:4-
24 82.4) or P.L. _____, c. _____ (C. _____) (now pending before the Legislature as
25 Senate Bill No. 895 or Assembly Bill No. 1919 of 1998), as
26 appropriate.

27 f. **【Notwithstanding any provisions of this section to the contrary,**
28 **a person confined for life at the Adult Diagnostic and Treatment**
29 **Center, for a crime whose circumstances conform to those enumerated**
30 **in paragraph (3) of subsection b. of N.J.S.2C:11-3, shall not be eligible**
31 **for parole or a deduction for commutation or work credits.】** (Deleted
32 by amendment, P.L. _____, c. _____) (now pending before the Legislature as
33 this bill).

34 (cf: P.L.1994, c. 134, s.3)

35

36 2. Section 7 of P.L. 1979, c.441 (C.30:4-123.51) is amended to read
37 as follows:

38 7. a. Each adult inmate sentenced to a term of incarceration in a
39 county penal institution, or to a specific term of years at the State
40 Prison or the correctional institution for women shall become primarily
41 eligible for parole after having served any judicial or statutory
42 mandatory minimum term, or one-third of the sentence imposed where
43 no mandatory minimum term has been imposed less commutation time
44 for good behavior pursuant to N.J.S.2A:164-24 or R.S.30:4-140 and
45 credits for diligent application to work and other institutional
46 assignments pursuant to P.L.1972, c.115 (C.30:8-28.1 et seq.) or

1 R.S. 30:4-92. Consistent with the provisions of the New Jersey Code
2 of Criminal Justice (N.J.S.2C:11-3, 2C:14-6, 2C:43-6, 2C:43-7),
3 commutation and work credits shall not in any way reduce any judicial
4 or statutory mandatory minimum term and such credits accrued shall
5 only be awarded subsequent to the expiration of the term.

6 b. Each adult inmate sentenced to a term of life imprisonment shall
7 become primarily eligible for parole after having served any judicial or
8 statutory mandatory minimum term, or 25 years where no mandatory
9 minimum term has been imposed less commutation time for good
10 behavior and credits for diligent application to work and other
11 institutional assignments. If an inmate sentenced to a specific term or
12 terms of years is eligible for parole on a date later than the date upon
13 which he would be eligible if a life sentence had been imposed, then
14 in such case the inmate shall be eligible for parole after having served
15 25 years, less commutation time for good behavior and credits for
16 diligent application to work and other institutional assignments.
17 Consistent with the provisions of the New Jersey Code of Criminal
18 Justice (N.J.S. 2C:11-3, 2C:14-6, 2C:43-6, 2C:43-7), commutation and
19 work credits shall not in any way reduce any judicial or statutory
20 mandatory minimum term and such credits accrued shall only be
21 awarded subsequent to the expiration of the term.

22 c. Each inmate sentenced to a specific term of years pursuant to the
23 "Controlled Dangerous Substances Act," P.L.1970, c.226 (C.24:21-1
24 through 45) shall become primarily eligible for parole after having
25 served one-third of the sentence imposed less commutation time for
26 good behavior and credits for diligent application to work and other
27 institutional assignments.

28 d. Each adult inmate sentenced to an indeterminate term of years as
29 a young adult offender pursuant to N.J.S.2C:43-5 shall become
30 primarily eligible for parole consideration pursuant to a schedule of
31 primary eligibility dates developed by the board, less adjustment for
32 program participation. In no case shall the board schedule require that
33 the primary parole eligibility date for a young adult offender be greater
34 than the primary parole eligibility date required pursuant to this section
35 for the presumptive term for the crime authorized pursuant
36 to N.J.S. 2C:44-1(f).

37 e. Each adult inmate sentenced **【to the Adult Diagnostic and**
38 **Treatment Center, Avenel,】** for an offense specified in N.J.S.2C:47-1
39 shall become primarily eligible for parole **【upon recommendation by**
40 **the special classification review board pursuant to N.J.S.2C:47-5,**
41 **except that no such inmate shall become primarily eligible prior to the**
42 **expiration of any mandatory or fixed minimum term imposed pursuant**
43 **to N.J.S.2C:14-6】** as follows:

44 (1) If the court finds that the offender's conduct was not
45 characterized by a pattern of repetitive, compulsive behavior or finds
46 that the offender is not amenable to sex offender treatment, or if after

1 sentencing the Department of Corrections in its most recent
2 examination determines that the offender is not amenable to sex
3 offender treatment, the offender shall become primarily eligible for
4 parole after having served any judicial or statutory mandatory minimum
5 term or one third of the sentence imposed where no mandatory
6 minimum term has been imposed. Neither such term shall be reduced
7 by commutation time for good behavior pursuant to R.S. 30:4-140 or
8 credits for diligent application to work and other institutional
9 assignments pursuant to R.S.30:4-92.

10 (2) All other offenders shall be eligible for parole pursuant to the
11 provisions of N.J.S.2C:47-5, except no offender shall become primarily
12 eligible for parole prior to the expiration of any judicial or statutory
13 mandatory minimum term.

14 f. Each juvenile inmate committed to an indeterminate term shall be
15 immediately eligible for parole.

16 g. Each adult inmate of a county jail, workhouse or penitentiary
17 shall become primarily eligible for parole upon service of 60 days of
18 his aggregate sentence or as provided for in subsection a. of this
19 section, whichever is greater. Whenever any such inmate's parole
20 eligibility is within six months of the date of such sentence, the judge
21 shall state such eligibility on the record which shall satisfy all public
22 and inmate notice requirements. The chief executive officer of the
23 institution in which county inmates are held shall generate all reports
24 pursuant to subsection d. of section 10 of P.L.1979, c.441
25 (C.30:4-123.54). The parole board shall have the authority to
26 promulgate time periods applicable to the parole processing of inmates
27 of county penal institutions, except that no inmate may be released
28 prior to the primary eligibility date established by this subsection,
29 unless consented to by the sentencing judge. No inmate sentenced to
30 a specific term of years at the State Prison or the correctional
31 institution for women shall become primarily eligible for parole until
32 service of a full nine months of his aggregate sentence.

33 h. When an inmate is sentenced to more than one term of
34 imprisonment, the primary parole eligibility terms calculated pursuant
35 to this section shall be aggregated by the board for the purpose of
36 determining the primary parole eligibility date, except that no juvenile
37 commitment shall be aggregated with any adult sentence. The board
38 shall promulgate rules and regulations to govern aggregation under this
39 subsection.

40 i. The primary eligibility date shall be computed by a designated
41 representative of the board and made known to the inmate in writing
42 not later than 90 days following the commencement of the sentence.
43 In the case of an inmate sentenced to a county penal institution such
44 notice shall be made pursuant to subsection g. of this section. Each
45 inmate shall be given the opportunity to acknowledge in writing the
46 receipt of such computation. Failure or refusal by the inmate to
47 acknowledge the receipt of such computation shall be recorded by the

1 board but shall not constitute a violation of this subsection.

2 j. Except as provided in this subsection, each inmate sentenced
3 pursuant to N.J.S.2A:113-4 for a term of life imprisonment,
4 N.J.S.2A:164-17 for a fixed minimum and maximum term or
5 N.J.S.2C:1-1(b) shall not be primarily eligible for parole on a date
6 computed pursuant to this section, but shall be primarily eligible on a
7 date computed pursuant to P.L.1948, c.84 (C.30:4-123.1 et seq.),
8 which is continued in effect for this purpose. Inmates classified as
9 second, third or fourth offenders pursuant to section 12 of P.L.1948,
10 c.84 (C.30:4-123.12) shall become primarily eligible for parole after
11 serving one-third, one-half or two-thirds of the maximum sentence
12 imposed, respectively, less in each instance commutation time for good
13 behavior and credits for diligent application to work and other
14 institutional assignments; provided, however, that if the prosecuting
15 attorney or the sentencing court advises the board that the punitive
16 aspects of the sentence imposed on such inmates will not have been
17 fulfilled by the time of parole eligibility calculated pursuant to this
18 subsection, then the inmate shall not become primarily eligible for
19 parole until serving an additional period which shall be one-half of the
20 difference between the primary parole eligibility date calculated
21 pursuant to this subsection and the parole eligibility date calculated
22 pursuant to section 12 of P.L.1948, c.84 (C.30:4-123.12). If the
23 prosecuting attorney or the sentencing court advises the board that the
24 punitive aspects of the sentence have not been fulfilled, such advice
25 need not be supported by reasons and will be deemed conclusive and
26 final. Any such decision shall not be subject to judicial review except
27 to the extent mandated by the New Jersey and United States
28 Constitutions. The board shall, reasonably prior to considering any
29 such case, advise the prosecuting attorney and the sentencing court of
30 all information relevant to such inmate's parole eligibility.

31 k. Notwithstanding any provisions of this section
32 **[or N.J.S.2C:47-5]** to the contrary, a person sentenced to
33 imprisonment pursuant to paragraph (2) or (3) of subsection b. of
34 N.J.S.2C:11-3 shall not be eligible for parole.

35 l. Notwithstanding the provisions of subsections a. through j. of
36 this section, the appropriate board panel, as provided in section 1 of
37 P.L.1997, c.214 (C.30:4-123.51c), may release an inmate serving a
38 sentence of imprisonment on medical parole at anytime.
39 (cf: P.L.1997, c.214, s.2)

40

41 3. (New section) a. Whenever the parole of an offender committed
42 to confinement under the terms of this chapter is revoked by the State
43 Parole Board, the Department of Corrections shall, within 90 days of
44 the date of revocation of parole, complete a psychological examination
45 of the offender to determine whether the violation of the conditions of
46 parole reflects emotional or behavioral problems as a sex offender that
47 cause the offender to be incapable of making any acceptable social

1 adjustment in the community and, if so, to determine further the
2 offender's amenability to sex offender treatment and, if amenable, the
3 offender's willingness to participate in such treatment. Not more than
4 30 days after the date of the examination, the Department of
5 Corrections shall provide a written report of the results to the State
6 Parole Board.

7 b. The offender shall be confined in the Adult Diagnostic and
8 Treatment Center if the report of the examination conducted pursuant
9 to subsection a. of this section reveals that the offender's violation of
10 the conditions of parole reflects emotional or behavioral problems as
11 a sex offender that cause the offender to be incapable of making any
12 acceptable social adjustment in the community and further reveals that
13 the offender is amenable to sex offender treatment and is willing to
14 participate in such treatment. The offender shall be eligible for parole
15 pursuant to the provisions of subsection a. of N.J.S.2C:47-5.

16 c. The offender shall be confined in a facility designated by the
17 commissioner pursuant to section 2 of P.L.1969, c. 22 (C.30:4-91.2) if
18 the report of the examination conducted pursuant to subsection a. of
19 this section reveals that the offender's violation of the conditions of
20 parole reflects emotional or behavioral problems as a sex offender that
21 cause the offender to be incapable of making any acceptable social
22 adjustment in the community and further reveals that the offender is
23 amenable to sex offender treatment, but is not willing to participate in
24 such treatment. The offender shall be eligible for parole pursuant to
25 the provisions of subsection a. of N.J.S.2C:47-5.

26 d. (1) The offender shall be confined in a facility designated by the
27 commissioner pursuant to section 2 of P.L.1969, c.22 (C.30:4-91.2) if
28 the report of the examination conducted pursuant to subsection a. of
29 this section reveals that the offender's violation of the conditions of
30 parole:

31 (a) does not reflect emotional or behavioral problems as a sex
32 offender; or

33 (b) reflects emotional or behavioral problems as a sex offender that
34 cause the offender to be incapable of making any acceptable social
35 adjustment in the community and further reveals that the offender is
36 not amenable to sex offender treatment.

37 (2) An offender confined pursuant to the provisions of paragraph (1)
38 of this subsection shall be eligible for parole pursuant to the provisions
39 of Title 30 of the Revised Statutes. However, a parole eligibility date
40 established by the State Parole Board pursuant to section 20 of
41 P.L.1979, c.441 (C.30:4-123.64) or a future parole eligibility date
42 established by the State Parole Board pursuant to section 12 of
43 P.L.1979, c.441 (C.30:4-123.56) shall not be reduced by commutation
44 time for good behavior pursuant to R.S.30:4-140 or credits for diligent
45 application to work and other institutional assignments pursuant to
46 R.S.30:4-92.

47 e. Notwithstanding the provisions of R.S.30:4-92, the balance of the

1 sentence of an offender confined pursuant to subsection c. or
2 subparagraph (b) of paragraph (1) of subsection d. of this section shall
3 not be reduced by credits for diligent application to work and other
4 institutional assignments; provided, however, if the offender is at any
5 time transferred to the Adult Diagnostic and Treatment Center pursuant
6 to subsection f. of this section the balance of the sentence shall be
7 reduced by credits for diligent application to work and other
8 institutional assignments earned by the offender during confinement in
9 the Adult Diagnostic and Treatment Center.

10 f. If an offender is confined pursuant to subsection c. or
11 subparagraph (b) of paragraph (1) of subsection d. of this section, the
12 offender may, on a biennial basis, request to be transferred to the Adult
13 Diagnostic and Treatment Center. Within 90 days after receiving a
14 request for a transfer, the Department of Corrections shall conduct a
15 psychological examination. If, upon the completion of a psychological
16 examination, the Department of Corrections determines that the
17 offender is amenable to sex offender treatment and is willing to
18 participate in such treatment, the commissioner shall order the offender
19 to be transferred to the Adult Diagnostic and Treatment Center as soon
20 as practicable. When an offender previously determined not to be
21 amenable to sex offender treatment is transferred to the Adult
22 Diagnostic and Treatment Center, the offender shall be eligible for
23 parole pursuant to the provisions of subsection a. of N.J.S.2C:47-5.
24

25 4. This act shall take effect on the first day of the fourth month after
26 enactment.
27
28

29 STATEMENT
30

31 This bill amends current law governing the parole of sex offenders
32 from the Adult Diagnostic and Treatment Center (ADTC), New
33 Jersey's correctional and treatment facility for convicted sex offenders.
34 It is part of a two bill package to improve the management and
35 treatment of sex offenders and thereby increase protection of the
36 general public when sex offenders are ultimately released.

37 Under current law, a sex offender sentenced to the ADTC becomes
38 eligible for parole when it appears to the satisfaction of the State Parole
39 Board, upon the recommendation of the Special Classification Review
40 Board, that the offender is "capable of making an acceptable social
41 adjustment in the community." Under the provisions of this bill, the
42 sex offender would become eligible for parole consideration upon
43 referral of his case to the State Parole Board by the Special
44 Classification Review Board, based on a determination that the
45 offender has achieved a satisfactory level of progress in sex offender
46 treatment. The offender would thereafter be released on parole unless
47 the State Parole Board determines that the information contained in the

1 preparole report indicates by a preponderance of the evidence that the
2 offender has failed to cooperate in his own rehabilitation or there is a
3 reasonable expectation that the offender will violate conditions of
4 parole. A repetitive, compulsive sex offender who is determined to be
5 amenable to sex offender treatment, but is not willing to participate in
6 such treatment and who is confined in a correctional facility other than
7 the ADTC also would be subject to these same parole eligibility
8 provisions.

9 A sex offender who was determined not to be repetitive and
10 compulsive or who was determined to be repetitive and compulsive,
11 but not amenable to sex offender treatment, would be subject to the
12 provisions of Title 30 of the Revised Statutes governing parole. The
13 parole eligibility terms of such sex offenders would not be reduced by
14 commutation time for good behavior or by work credits. No sex
15 offender would become primarily eligible for parole prior to the
16 expiration of any judicial or statutory mandatory minimum term.

17 The bill also sets forth specific procedures for revoking the parole
18 of a repetitive, compulsive sex offender. Within 90 days of revocation,
19 the DOC would complete a psychological examination of the offender
20 to determine whether the parole violation reflects emotional or
21 behavioral problems as a sex offender that cause the offender to be
22 incapable of making any acceptable social adjustment in the
23 community. The examination would determine further the offender's
24 amenability to sex offender treatment and willingness to participate in
25 such treatment. As a result of this examination, the offender could be
26 confined in the ADTC. If the offender is amenable to sex offender
27 treatment, but is not willing to participate in such treatment, he would
28 be confined in a facility other than the ADTC. In both cases the
29 offender would be eligible for parole pursuant to the provisions of
30 N.J.S.2C:47-5.

31 If the DOC examination reveals that the offender's violation of the
32 conditions of parole (1) does not reflect emotional or behavioral
33 problems as a sex offender or (2) reflects emotional or behavioral
34 problems as a sex offender that cause the offender to be incapable of
35 making any acceptable social adjustment in the community and further
36 reveals that the offender is not amenable to sex offender treatment, the
37 offender would not be confined in the ADTC and would be eligible for
38 parole pursuant to the provisions of Title 30 of the Revised Statutes.
39 The offender would be permitted to request a transfer to the ADTC and
40 would thereupon be eligible for parole pursuant to N.J.S.2C:47-5.
41 However, a parole eligibility date or a future parole eligibility date
42 established by the State Parole Board would not be reduced by
43 commutation time for good behavior or work credits unless the
44 offender was transferred to the ADTC.

SENATE LAW AND PUBLIC SAFETY COMMITTEE

STATEMENT TO

SENATE, No. 1110

STATE OF NEW JERSEY

DATED: JUNE 11, 1998

The Senate Law and Public Safety Committee reports favorably Senate Bill No. 1110.

This bill amends current law governing the parole of sex offenders from the Adult Diagnostic and Treatment Center (ADTC), New Jersey's correctional and treatment facility for convicted sex offenders. It is part of a two bill package to improve the management and treatment of sex offenders and thereby increase protection of the general public when sex offenders are ultimately released.

Under current law, a sex offender sentenced to the ADTC becomes eligible for parole when it appears to the satisfaction of the State Parole Board, upon the recommendation of the Special Classification Review Board, that the offender is "capable of making an acceptable social adjustment in the community." Under the provisions of this bill, the sex offender would become eligible for parole consideration upon referral of his case to the State Parole Board by the Special Classification Review Board, based on a determination that the offender has achieved a satisfactory level of progress in sex offender treatment. The offender would thereafter be released on parole unless the State Parole Board determines that the information contained in the preparole report indicates by a preponderance of the evidence that the offender has failed to cooperate in his own rehabilitation or there is a reasonable expectation that the offender will violate conditions of parole. A repetitive, compulsive sex offender who is determined to be amenable to sex offender treatment, but is not willing to participate in such treatment, and who is confined in a correctional facility other than the ADTC also would be subject to these same parole eligibility provisions.

A sex offender who was determined not to be repetitive and compulsive or who was determined to be repetitive and compulsive, but not amenable to sex offender treatment, would be subject to the provisions of Title 30 of the Revised Statutes governing parole. The parole eligibility terms of such sex offenders would not be reduced by commutation time for good behavior or by work credits. No sex offender would become primarily eligible for parole prior to the expiration of any judicial or statutory mandatory minimum term.

The bill also sets forth specific procedures for revoking the parole

of a repetitive, compulsive sex offender. Within 90 days of revocation, the DOC would complete a psychological examination of the offender to determine whether the parole violation reflects emotional or behavioral problems as a sex offender that cause the offender to be incapable of making any acceptable social adjustment in the community. The examination would determine further the offender's amenability to sex offender treatment and willingness to participate in such treatment. As a result of this examination, the offender could be confined in the ADTC. If the offender is amenable to sex offender treatment, but is not willing to participate in such treatment, he would be confined in a facility other than the ADTC. In both cases, the offender would be eligible for parole pursuant to the provisions of N.J.S.2C:47-5.

If the DOC examination reveals that the offender's violation of the conditions of parole (1) does not reflect emotional or behavioral problems as a sex offender or (2) reflects emotional or behavioral problems as a sex offender that cause the offender to be incapable of making any acceptable social adjustment in the community, and further reveals that the offender is not amenable to sex offender treatment, the offender would not be confined in the ADTC and would be eligible for parole pursuant to the provisions of Title 30 of the Revised Statutes. The offender would be permitted to request a transfer to the ADTC and would thereupon be eligible for parole pursuant to N.J.S.2C:47-5. However, a parole eligibility date or a future parole eligibility date established by the State Parole Board would not be reduced by commutation time for good behavior or work credits unless the offender was transferred to the ADTC.

Office of the Governor
NEWS RELEASE

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RELEASE: August 12, 1998

Governor Whitman Signs Bills Cracking Down on Sex Offenders

Gov. Christie Whitman today signed a package of bills that will ensure that sex offenders receive appropriate treatment and are not released into the community if there is a likelihood they will repeat their crimes.

"Earlier this year, I made a promise to the citizens of New Jersey. I said that we should make it easier to keep still-dangerous sex offenders away from our children, even after they have served their criminal sentences," the Governor said. "Megan's Law enabled us to keep more than 80 such predators in civil commitment beyond their initial prison terms. It is time to expand that authority."

Known as the New Jersey Sexually Violent Predator Act, S-895, sponsored by Senators Robert Martin (R-Essex/Morris/Passaic) and Anthony Bucco (R-Morris) and Assembly Members Guy Talarico (R-Bergen) and Rose Heck (R-Bergen), allows the state to involuntarily commit sex offenders who suffer from mental abnormalities or personality disorders which make them likely to re-offend.

Currently, only those offenders who meet the legal definition of "mentally ill" may be involuntarily committed.

Under A-2101, sponsored by Assembly Members James Holzapfel (R-Monmouth/Ocean) and Rose Heck (R-Bergen) and Senators John Bennett (R-Monmouth) and Louis Kosco (R-Bergen), sex offenders sent to the ADTC must be willing to participate in sex offender treatment. Those sex offenders who are not amenable to the treatment will not be sentenced to the ADTC.

The bill also requires that current inmates who are no longer participating or cooperating with sex offender treatment be transferred from the center into another Department of Corrections facility.

A-2102, sponsored by Assembly Members James Holzapfel (R-Monmouth/Ocean) and Rose Heck (R-Bergen) and Senators Louis Bassano (R-Essex/Union) and Louis Kosco (R-Bergen), will make it easier to keep a sex offender incarcerated if there is a likelihood that they will violate conditions of parole.

Under the current process, the standard for parole is that the offender must only "be capable of making an acceptable social adjustment in the community." The new standards will be that the offender has had progress in sex offender treatment and that the State Parole Board has determined there is not a reasonable expectation that the offender will violate conditions of parole.

The bills implement some of the recommendations of the Joint Task Force to Study the Adult Diagnostic and Treatment Center.

"When I first arrived in office, I knew that many changes had to be made in order to make New Jersey the safest and best place to start and raise a family," Gov. Whitman said. "To a community, crime is like a virus. If contracted and not attacked aggressively, it will devastate families and businesses alike, as well as weaken New Jersey's image."