

30:4-123.45 to 30:4-123.68

LEGISLATIVE HISTORY CHECKLIST

("Parole Act of 1979")

WASA 30:4-123.45 to 30:4-123.68; 30:4-1.1 et al

LAWS OF 1979 CHAPTER 441

BILL No. A3093

Sponsor(s) Jackman and Herman

Date Introduced January 25, 1979

Committee: Assembly Judiciary, Law, Public Safety and Defense

Senate Law, Public Safety and Defense

Amended during passage Yes XX

Date of Passage: Assembly Dec. 6, 1979

Senate Dec. 17, 1979

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Following statements are attached if available:

Sponsor statement Yes XX

Committee Statement: Assembly Yes XX

Senate Yes XX

Fiscal Note XXX No

Veto message Yes XX

Message on signing Yes XX

Following were printed.

Reports Yes XX

Hearings Yes XX

Public hearings, held by Assembly Judiciary Committee, on May 1 and May 2, 1979, were not transcribed. To listen to tapes, contact Hermine Kelty, 292-5526 or committee aide, Bert Weltman.

(over)

9/1/73
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974.90 Public hearing addressing the issue of crime
c929 held 12-1-78, Trenton, 1978.
1978a (Covers topics proposed in act; e.g. "presum

Recommendations made in:

J364.62 N.J. Association on Correction.
C824a Report of the Special Study Commission on Parole
Reform, February 12, 1975.

974.90 N.J. Correctional Master Plan Policy Council.
P959 New Jersey correctional master plan. March, 1977.
1977a Trenton, 1977.

See also: (attached)

974.901 N.J. Governor (Byrne, 1974-)
G52 5th annual message, 1-19-79.

Hearing on earlier proposed legislation:

974.90 N.J. Legislative Senate. Committee on Institutions.
P959 Health and Welfare.
1973e Public hearing on S.1122, held 6-21-73
Trenton, 1973.

CHAPTER 441 LAWS OF N. J. 1979
APPROVED 2-21-80 L.I.V.

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ASSEMBLY, No. 3093

STATE OF NEW JERSEY

INTRODUCED JANUARY 25, 1979

By Assemblymen JACKMAN and HERMAN

Referred to Committee on Judiciary, Law, Public Safety and Defense

AN ACT concerning parole, establishing a consolidated State Parole Board, revising procedures for granting parole, amending P. L. 1971, c. 384*, amending R. S. 30:4-148, supplementing P. L. 1972, c. 58* and repealing sections 30:4-106 ***[and]*** *,* 30:4-108 to 30:4-113*, 30:4-155 and 30:8-28* of the Revised Statutes and P. L. 1948, c. 84, P. L. 1950, c. 30 and P. L. 1952, c. 32.

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

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

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

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

6 (2) "Juvenile inmate" means any person under commitment by
7 a juvenile court pursuant to subsection h. of section 2D of P. L.
8 1973, c. 306 (C. 2A:4-61(h)).

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

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

15 (5) "Public notice" shall consist of lists including names of all
16 inmates being considered for parole, the county from which he
17 was committed and the crime for which he was incarcerated. At
18 least 30 days prior to parole consideration such lists shall be
19 forwarded to the appropriate prosecutor's office, the sentencing
20 court, the Office of the Attorney General, any other Criminal
21 Justice agencies whose information and comment may be relevant,
22 and news organizations.

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

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

1 2. a. ***[This]*** *Except as otherwise provided by this act, this**
 1A act shall apply to all persons now serving or hereafter sen-
 2 tenced or committed to State correctional facilities and to all
 3 persons now serving or hereafter sentenced to county jails, work-
 4 houses or penitentiaries.

5 b. In the case of persons now serving sentences or committed,
 6 the board hereinafter established may postpone for a reasonable
 7 period of time not to exceed 6 months from the effective date of
 8 this act the application of this act in order to permit an orderly
 9 conversion to the system hereinafter established.

1 3. a. There is hereby created and established within the Depart-
 2 ment of Corrections a State Parole Board which shall consist of
 3 a chairman and six associate members. The chairman and associate
 4 members shall be appointed by the Governor *with the advice*
 4A *and consent of the Senate** from qualified persons with training
 5 or experience in law, sociology, criminal justice, juvenile
 6 justice or related branches of the social sciences. Members
 7 of the board shall be appointed for terms of 6 years, but of the
 8 associate members first appointed, one shall be appointed for a
 9 term of 1 year, one for a term of 2 years, one for a term of 3 years,
 10 one for a term of 4 years, one for a term of 5 years and one for a
 11 term of 6 years. Member's terms shall commence on the effective
 12 date of this act and the terms of their successors shall be calcu-
 13 lated from the expiration of the incumbent's term. Members shall
 14 serve until their successors are appointed and have qualified.

15 b. Any vacancy occurring in the membership of the board, other-
 16 wise than by expiration of term, shall be filled in the same manner
 17 as one occurring by expiration of term, but for the unexpired term
 18 only. In the event that any member of the board shall be rendered
 19 incapable of performing his duties, the Governor shall appoint a
 20 qualified person to act in his stead during the period of his inca-
 21 pacity. Any member of the board may be removed from office by
 22 the Governor for cause.

23 c. The members of the board shall devote their full time to the
 24 performance of their duties and be compensated pursuant to sec-
 25 tion 2 of P. L. 1974, c. 55.

26 **d. At the time of appointment, the Governor shall designate two*
 27 *associate members of the board to serve on a panel on juvenile*
 28 *commitments. The remaining four associate members of the board*
 29 *shall be appointed by the Governor to panels on adult sentences.*
 30 *The chairman of the board shall assign two of the associate mem-*
 31 *bers so appointed to a panel on prison sentences and the remaining*
 32 *two associate members so appointed to a panel on young adult*
 33 *sentences. The chairman of the board shall be a member of each*
 34 *panel.**

1 4. a. All policies and determinations of the Parole Board shall
 2 be made by the majority vote of **[a quorum of]* the members.

2A **b. Except where otherwise noted, parole determinations on*
 2B *individual cases pursuant to this act shall be made by the majority*
 2C *vote of a quorum of the appropriate board panel established pur-*
 2D *suant to this section.**

3 **[b.]* *c.** The chairman of the board shall be the chief executive
 4 officer of the board and, after consulting with the board, shall be
 5 responsible for designating the time and place of all board meet-
 6 ings, for appointing the board's employees, for organizing, control-
 7 ling and directing the work of the board and its employees, and for
 8 preparation and justification of the board's budget. The **non-*
 8A *secretarial** professional **and supervisory** employees of the board
 9 such as, but not limited to, hearing officers, shall serve at the
 10 pleasure of the chairman and shall not be subject to the provisions
 11 of Title 11 of the Revised Statutes. **Nothing contained herein shall*
 11A *be deemed to affect the employees of the Department of Correc-*
 11B *tions, such as parole officers assigned to supervise parolees.**

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

23 **[d.]* *e.** The board, in conjunction with the Department of
 24 Corrections, shall develop a uniform information system in order
 25 to closely monitor the parole process. **Such system shall include*
 26 *participation in the Uniform Parole Reports of the National Coun-*
 27 *cil on Crime and Delinquency.**

28 ***[e.]*** *f.* The board shall transmit a report of its work for the
 29 preceding fiscal year*, *including information on the causes and*
 30 *extent of parole recidivism**, to the Governor ***[and]*** **, the
 31 Legislature *and the Criminal Disposition Commission** annually.

32 ***[f.]*** *g.* The board shall give public notice prior to consider-
 33 ing any adult inmate for release.

34 *h. The board shall give notice to the appropriate prosecutor's
 35 office and to the committing court prior to the initial consideration
 36 of any juvenile inmate for release.*

1 5. ***[a.]** Two associate members of the board shall be appointed by
 2 the Governor to a panel on juvenile commitments. The remaining
 3 four associate members of the board shall be appointed by the
 4 Governor to panels on adult sentences. The chairman of the board
 5 shall assign two of the associate members so appointed to a panel
 6 on prison sentences and the remaining two associate members so
 7 appointed to a panel on young adult sentences. The chairman of
 8 the board shall be a member of each panel.

9 b. Except where otherwise noted, parole determinations on in-
 10 dividual cases pursuant to this act shall be made by the majority
 11 vote of a quorum of the appropriate board panel established pur-
 12 suant to this section.]**

13 ***[c.]*** *a.* The chairman of the board, after consulting with the
 14 board, shall assign any ***[special]*** case *not otherwise assigned,*
 15 *such as county jail, workhouse, or penitentiary cases**, to a board
 15A panel as necessary for the efficient functioning of the board.

16 ***[d.]*** *b.* Nothing contained in this act shall be deemed to
 17 preclude a member of any board panel from exercising all the func-
 18 tions, powers, and duties of a hearing officer upon designation by
 19 the chairman*; *provided, however, that no member so designated*
 20 *shall participate in the disposition of a panel or board review of*
 21 *his initial decision**.

22 ***[e.]*** *c.* No hearing officer assigned to review adult cases
 23 shall be assigned to review juvenile cases pursuant to sections 13
 24 and 19 of this act*, *nor shall any hearing officer assigned to review*
 25 *juvenile cases be assigned to review adult cases**.

26 *d. Representatives of the board or the chairman designated
 27 pursuant to this act may include employees of the board and em-
 28 ployees of other agencies such as the Department of Corrections,
 29 provided that no employee of the Department of Corrections shall
 30 be so designated without the approval of the Commissioner of
 31 Corrections. Such representatives shall not participate in the
 32 disposition of parole cases.*

1 6. a. The Department of Corrections shall provide such office
2 facilities and clerical assistance as may be necessary to enable the
3 board to perform properly its duties and to keep and maintain the
4 records required herein.

5 b. The Department of Corrections, the chief executive officers and
6 staffs of those facilities assigned to the Department of Corrections,
7 the chief executive officers and staffs of the county jails, work-
8 houses, and penitentiaries and the chief executive officers and staffs
9 of those facilities assigned to the Department of Human Services
10 where inmates or parolees are housed shall render full and com-
11 plete cooperation to the board in the matter of furnishing the board
12 all pertinent data and information relating to particular inmates.
13 It shall also be the duty of the clerk of the court from which the
14 inmate was committed, and of county probation officers and other
15 officials, to forward to the board any commitment order, any pre-
16 sentence report, and the sentencing court's written reasons for any
17 sentence imposed. The board shall in addition have the power to
18 compel the appearance of witnesses and the production of docu-
19 mentary evidence relevant to any proceedings before it. Failure to
20 respond to any subpoena shall carry the penalty prescribed by law
21 for failure to so respond in ***[a county court]*** **the Superior*
22 *Court**.

1 7. a. Each adult inmate sentenced to a specific term of years at
2 the State Prison or the correctional institution for women shall
3 become primarily eligible for parole after having served any
4 judicial or statutory mandatory minimum term, or one third of the
5 sentence imposed where no mandatory minimum term has been
6 imposed ***[,]*** less ***[in each instance]*** commutation time for good
7 behavior pursuant to R. S. 30:4-140 and credits for diligent appli-
8 cation to work and other institutional assignments pursuant to
8A R. S. 30:4-92. **Consistent with the provisions of the New Jersey*
8B *Code of Criminal Justice (N. J. S. 2C:11-3, 2C:14-6, 2C:43-6,*
8C *2C:43-7), commutation and work credits shall not in any way*
8D *reduce any judicial or statutory mandatory minimum term and*
8E *such credits accrued shall only be awarded subsequent to the expi-*
8F *ration of the term.**

9 b. Each adult inmate sentenced to a term of life imprisonment
10 shall become primarily eligible for parole after having served any
11 judicial or statutory mandatory minimum term, or ***[20]*** ***25***
12 years where no mandatory minimum term has been imposed ***[,]***
13 less ***[in each instance]*** commutation time for good behavior and
14 credits for diligent application to work and other institutional

15 assignments. If an inmate sentenced to a specific term or terms of
 16 years is eligible for parole on a date later than the date upon
 17 which he would be eligible if a life sentence had been imposed, then
 18 in such case the inmate shall be eligible for parole after having
 19 served ***[20]*** *25* years, less commutation time for good behavior
 20 and credits for diligent application to work and other institu-
 20A tutional assignments. **Consistent with the provisions of the New*
 20B *Jersey Code of Criminal Justice (N. J. S. 2C:11-3, 2C:14-6,*
 20C *2C:43-6, 2C:43-7), commutation and work credits shall not in any*
 20D *way reduce any judicial or statutory mandatory minimum term and*
 20E *such credits accrued shall only be awarded subsequent to the expi-*
 20F *ration of the term.**

21 c. Each inmate sentenced ***[after September 1, 1979 for a**
 21A **term]*** **to a specific term of years** pursuant to the "Controlled
 22 Dangerous Substances Act" P. L. 1970, c. 226 (C. 24:2101 through
 23 45) shall become primarily eligible for parole after having served
 24 one third of the sentence imposed less commutation time for good
 25 behavior and credits for diligent application to work and other
 26 institutional assignments.

27 d. Each adult inmate sentenced to an indeterminate term of
 28 years as a young adult offender pursuant to N. J. S. 2C:43-5 shall
 29 become primarily eligible for parole consideration pursuant to a
 30 schedule of primary eligibility dates developed by the board, less
 31 adjustment for program participation. In no case shall the board
 32 schedule require that the primary parole eligibility date for a young
 33 adult offender be greater than primary parole eligibility date re-
 34 quired pursuant to this section for the ***[maximum specific]***
 35 **presumptive** term for the crime authorized pursuant to N. J. S.
 35A ****[2C:43-6]*** *2C:44-1(f)*.*

36 e. Each adult inmate sentenced to the Adult Diagnostic and
 37 Treatment Center, Avenel, shall become primarily eligible for
 38 parole upon recommendation by the special classification review
 39 board pursuant to N. J. S. 2C:47-5*, *except that no such inmate*
 39A *shall become primarily eligible prior to the expiration of any man-*
 39B *datory or fixed minimum term imposed pursuant to N. J. S.*
 39C *2C:14-6*.*

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

42 g. Each adult inmate of a county jail, workhouse or penitentiary
 43 shall become primarily eligible for parole upon service of a full 9
 44 months of his aggregate sentence. No inmate sentenced to a
 45 specific term of years at the State Prison or the correctional in-

46 stitution for women shall become primarily eligible for parole until
47 service of a full 9 months of his aggregate sentence.

48 h. When an inmate is sentenced to more than one term of im-
49 prisonment, the primary parole eligibility terms calculated pur-
50 suant to this section shall be aggregated by the board for the
51 purpose of determining the primary parole eligibility date, except
52 that no juvenile commitment shall be aggregated with any adult
53 sentence. The board shall promulgate rules and regulations to
54 govern aggregation under this subsection.

55 i. The primary eligibility date shall be computed by a designated
56 representative of the board and made known to the inmate in writ-
57 ing not later than 90 days following the commencement of the
58 sentence. **Each inmate shall be given the opportunity to acknowl-
58A edge in writing the receipt of such computation. Failure or refusal
58B by the inmate to acknowledge the receipt of such computation shall
58C be recorded by the board but shall not constitute a violation of this
58D subsection.**

59 j. **[Each]* *Except as provided in this subsection, each* inmate
60 sentenced **[for a fixed minimum and maximum term or a life
61 term]* pursuant to *N. J. S. 2A:113-4 for a term of life imprison-
62 ment,* * [R. S.]* *N. J. S.* 2A:164-17 *for a fixed minimum and
63 maximum term* or **[N. J. S. 2C:1-1]* *N. J. S. 2C:1-1(b)* shall
64 not be primarily eligible for parole on a date computed pursuant
65 to this section, but shall be primarily eligible on a date computed
66 pursuant to P. L. 1948, c. 84 (C. 30:4-123.1 et seq.)*, *which is
67 continued in effect for this purpose. Inmates classified as second,
68 third or fourth offenders pursuant to section 12 of P. L. 1948, c. 84
69 (C. 30:4-123.12) shall become primarily eligible for parole after
70 serving one-third, one-half or two-thirds of the maximum sentence
71 imposed, respectively, less in each instance commutation time for
72 good behavior and credits for diligent application to work and
73 other institutional assignments; provided, however, that if the
74 prosecuting attorney or the sentencing court advises the board
75 that the punitive aspects of the sentence imposed on such inmates
76 will not have been fulfilled by the time of parole eligibility calcu-
77 lated pursuant to this subsection, then the inmate shall not become
78 primarily eligible for parole until serving an additional period
79 which shall be one half of the difference between the primary parole
80 eligibility date calculated pursuant to this subsection and the parole
81 eligibility date calculated pursuant to section 12 of P. L. 1948, c. 84
82 (C. 30:4-123.12). If the prosecuting attorney or the sentencing
83 court advises the board that the punitive aspects of the sentence****

84 *have not been fulfilled, such advice need not be supported by rea-*
85 *sons and will be deemed conclusive and final. Any such decision*
86 *shall not be subject to judicial review except to the extent mandated*
87 *by the New Jersey and United States Constitutions. The board*
88 *shall, reasonably prior to considering any such case, advise the*
89 *prosecuting attorney and the sentencing court of all information*
90 *relevant to such inmates' parole eligibility*.*

1 8. a. If the appropriate board panel determines that an adult
2 inmate has seriously or persistently violated specifically defined
3 institutional rules or has engaged in conduct indictable in nature
4 while incarcerated, the inmate's parole eligibility date may be in-
5 creased pursuant to a schedule developed by the board. In develop-
6 ing such schedule, particular emphasis shall be placed on the
7 severity of the inmate's conduct. **The board shall deduct from the*
7A *scheduled penalty any loss of commutation time imposed by the*
7B *Department of Corrections pursuant to R. S. 30:4-140.**

8 b. If the appropriate board panel determines that an adult in-
9 mate has made exceptional progress, **as evidenced by documented*
9A *participation and progress in institutional or community educa-*
9B *tional, training or other programs,** the inmate's parole eligibility
10 date may be decreased, except that no parole eligibility date shall
11 be set below the primary parole eligibility date without the consent
12 of the sentencing court, which need not conduct a hearing **and in*
13 *no case shall a parole eligibility date be set below any judicial or*
14 *statutory mandatory minimum term, including any parole eligibility*
15 *date set pursuant to section 23 of this act*.*

16 **c. The appropriate board panel shall annually monitor the*
17 *progress of each adult inmate and provide the inmate with a writ-*
18 *ten statement of any changes in his parole eligibility.**

1 9. a. An adult inmate shall be released on parole at the time of
2 parole eligibility, unless information supplied in the report filed
3 pursuant to section 10 of this act or developed or produced at a
4 hearing held pursuant to section 11 of this act indicates **by a*
5 *preponderance of the evidence** that there is a substantial likeli-
6 hood that the inmate will commit a crime under the laws of this
6A State if released on parole at such time. **In reaching such deter-*
6B *mination, the board panel or board shall state on the record the*
6C *reasons therefor.**

7 b. A juvenile inmate shall be released on parole when it shall
8 appear that the juvenile, if released, will not cause injury to per-
9 sons or substantial injury to property.

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

6 b. The report filed pursuant to subsection a. shall contain pre-
7 incarceration records of the inmate, state the conduct of the inmate
8 during the current period of confinement, **include a complete*
8A *report on the inmate's social, physical and mental condition,**
8B *include an investigation *by the Bureau of Parole* of the inmate's*
9 parole plans, and present information bearing upon the likelihood
10 that the inmate will commit a crime under the laws of this State
11 if released on parole.

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

1 11. a. Prior to the parole eligibility date of each adult inmate, a
2 designated hearing officer shall review the reports required by
3 section 10 of this act, and shall determine whether there is a basis
4 for denial of parole in the preparole report or the inmate's state-
5 ment, or an indication, reduced to writing, that additional informa-
6 tion providing a basis for denial of parole would be developed or
7 produced at a hearing. If the hearing officer determines that there
8 is no basis in the preparole report or the inmate's statement for
9 denial of parole and that there is no additional relevant informa-
10 tion to be developed or produced at a hearing, he shall at least 60
11 days prior to the inmate's parole eligibility date recommend in
12 writing to the assigned member of the board panel that parole
13 release be granted.

14 b. If the assigned member of the board panel concurs in the
15 hearing officer's recommendation, he shall certify parole release
16 pursuant to section 15 of this act as soon as practicable after the
17 eligibility date and so notify the inmate and the board.

18 c. If the hearing officer or the assigned member determines that
19 there is a basis for denial of parole, or that a hearing is otherwise
20 necessary, the hearing officer or assigned member shall notify the
21 appropriate board panel and the inmate in writing of his determi-
22 nation, and of a date for a parole consideration hearing. Said

23 hearing shall be conducted ***[according to principles of fundamental**
24 **fairness]*** by the appropriate board panel at least 30 days prior to
25 the eligibility date. ***[The notice of hearing shall inform the inmate**
26 **of his right to rebut documentary evidence, and to present evidence**
27 **on his own behalf.]*** **At the hearing, which shall be informal, the*
27A *board panel shall receive as evidence any relevant and reliable*
27B *documents or testimony. All such evidence not classified as confi-*
27C *dential pursuant to rules and regulations of the board or the*
27D *Department of Corrections shall be disclosed to the inmate and the*
27E *inmate shall be permitted to rebut such evidence and to present*
27F *evidence on his own behalf. The decision of the board panel shall*
27G *be based solely on the evidence presented at the hearing.**

28 d. At the conclusion of the parole consideration hearing, the
29 board panel shall either (1) certify the parole release of the
30 inmate pursuant to section 15 of this act as soon as practicable
31 after the eligibility date and so notify the inmate and the board, or
32 (2) deny parole and file with the board within 30 days of the hear-
33 ing a statement setting forth the decision, the particular reasons
34 therefor, ***[and the facts relied on]*** **except information classified*
35 *as confidential pursuant to rules and regulations of the board or the*
36 *Department of Corrections**, a copy of which statement shall be
36A served upon the inmate together with notice of his right to appeal
36B to the board.

37 e. Upon request by the hearing officer or the inmate, the time
38 limitations contained in sections 10 and 11 may be waived by the
39 appropriate board panel for good cause.

1 12. a. The board shall develop a schedule of ***[release dates]***
2 **future parole eligibility dates** for adult inmates denied release
3 at their eligibility date. In developing such schedule, particular
4 emphasis shall be placed on the severity of the offense for which
5 he was denied parole and on the characteristics of the offender,
6 such as, but not limited to, the prior criminal record of the inmate
7 and the need for continued incapacitation of the inmate.

8 b. If release on the eligibility date is denied, the board panel
9 which conducted the hearing shall refer to the schedule published
10 pursuant to subsection a., and include in its statement denying
11 parole notice of the date of future parole consideration. If such
12 date differs from the date otherwise established by the schedule,
13 the board panel shall include particular reasons therefor. Such
14 future parole eligibility date shall take into account usual remis-
15 sions of sentence for good behavior and diligent application to
16 work and other assignments. Such future parole eligibility date
17 may also be altered pursuant to section 8 of this act.

18 c. An inmate shall be released on parole on the new parole eligi-
19 bility date unless new information filed pursuant to a procedure
20 identical to that set forth in section 10 indicates **by a preponder-*
21 *ance of the evidence** that there is a substantial likelihood that
22 the inmate will commit a crime under the laws of this State if
23 released on parole at such time. The determination of whether
24 there is such an indication in the new preparole report or whether
25 there is additional relevant information to be developed or pro-
26 duced at a hearing, and the determination of whether the inmate
27 shall be released on the new parole eligibility date shall be made
28 pursuant to the procedure set forth in sections 11 and 12.

1 13. a. An assigned member of the board panel on juvenile commit-
2 ments or a designated hearing officer shall periodically, but not less
3 than quarterly, review the case of each juvenile inmate committed
4 to determine whether release should be granted pursuant to sub-
5 section b. or section 9.

6 b. Such review shall include a personal interview of the inmate
7 by the assigned member or the designated hearing officer*, *and*
7A *prior to such review a designated representative of the board panel*
7B *shall discuss with and explain to the juvenile inmate all documents*
7C *relevant to the case, excepting those documents which have been*
7D *classified as confidential pursuant to rules and regulations of the*
7E *board or the Department of Corrections*.*

8 c. If such review is conducted by a hearing officer, the hearing
9 officer shall, at the conclusion of the review, recommend in writing
10 any appropriate action to the assigned member of the panel on
11 juvenile commitments.

12 d. At the conclusion of the review, the assigned member of the
13 board panel shall either (1) certify parole release of the juvenile
14 as soon as practicable, or (2) file with the board a statement setting
15 forth the decision of the member, a copy of which statement shall
16 be served upon the juvenile, the juvenile's parents or guardians,
17 and the court.

18 e. The board panel on juvenile commitments shall at least yearly
19 review the case of each juvenile confined to determine the reasons
20 for the continued confinement of the juvenile. A report of such
21 review shall be forwarded to the board, the Commissioner of Cor-
22 rections and the committing court.

1 14. a. Any denial of parole by a board panel shall*, *in accordance*
1A *with criteria established by the board,** be appealable to the full
2 board by the inmate or one acting on the inmate's behalf. If ap-
3 pealed, the full board shall decide the appeal except that any board
4 member who participated in the decision from which the appeal is

5 taken may not participate in the ***[resolution]*** **disposition**
6 of that appeal. The board shall serve written notice on all parties
7 setting forth the decision, the particular reasons therefor, and the
8 facts relied on.

9 b. The board may upon its own initiative and for good cause, in a
10 timely manner, review the decision of any hearing officer, board
11 member or board panel and take appropriate action **pursuant to*
12 *sections 9 and 16 of this act**.

13 **c. If information comes to the attention of the appropriate*
14 *board panel which bears upon the likelihood that the inmate will*
15 *commit a crime but which was not considered pursuant to sections*
16 *11, 12 and 13 of this act, the board panel may suspend any parole*
17 *release date certified pursuant to section 11 or 13 for a period of*
18 *not more than 60 days in order to conduct a rescission hearing to*
19 *determine whether parole release on the original parole release*
20 *date should be denied or delayed.**

1 15. a. Each parolee shall at all times remain in the legal custody
2 of the Commissioner of Corrections, and shall remain under
3 ****[parole supervision]*** *the supervision of the Bureau of Parole**
3A *of the Department of Corrections** in accordance with the rules
3B of the board.

4 b. Each parolee shall agree, as evidenced by his signature to abide
5 by specific conditions of parole established by the appropriate board
6 panel which shall be enumerated in writing in a certificate of
7 parole and shall be given to the parolee upon release. Such condi-
8 tions shall include, among other things, a requirement that the
9 parolee conduct himself in society in compliance with all laws and
10 refrain from committing any crime*, *a requirement that the parolee*
10A *obtain permission from his parole officer for any change in his*
11 *residence,** and a requirement that the parolee report at reasonable
12 intervals to an assigned parole officer. In addition, based on prior
13 history of the parolee, the member or board panel certifying parole
14 release pursuant to section 11 may impose any other specific condi-
15 tions of parole deemed reasonable in order to reduce the likelihood
16 of recurrence of criminal behavior. Such special conditions may
17 include, among other things, a requirement that the parolee make
18 full or partial restitution, the amount of which restitution shall be
19 set by the sentencing court upon request of the board.

20 c. The appropriate board panel may in writing relieve a parolee
21 of any parole conditions, and may permit a parolee to reside
22 outside the State **pursuant to the provisions of the Uniform Act*
22A *for Out-of-State Parolee Supervision (N. J. S. 2A:168-14 et seq.)*

22B *and the interstate compact on juveniles P. L. 1955, c. 55 (C. 9:23-1*
 22C *to 9:23-4)** if satisfied that such change will not result in a substan-
 23 tial likelihood that the parolee will commit an offense which would
 24 be ***[an offense]*** **a crime** under the laws of this State. The
 25 appropriate board panel may revoke such permission or reinstate
 26 relieved parole conditions for any period of time during which a
 27 parolee is under its jurisdiction.

28 d. The appropriate board panel may parole an inmate to any
 29 residential facility funded in whole or in part by the State **if the*
 29A *inmate would not otherwise be released pursuant to section 9*
 30 *without such placement**. Such facility shall receive the parolee and
 31 shall not discharge or otherwise release the parolee without the
 31A consent of the board panel.

32 e. The assigned parole officer shall provide assistance to the
 33 parolee in obtaining employment, education or vocational training
 34 or in meeting other obligations.

35 f. The board panel on juvenile commitments and the assigned
 36 parole officer shall insure that the least restrictive available alter-
 37 native is used for any juvenile parolee.

38 g. If the board has granted parole to any inmate **from a State*
 39 *correctional facility** and the court has imposed a fine on such
 40 inmate, the appropriate board panel shall release such inmate on
 41 condition that he make specified fine payments to the Bureau of
 42 Parole. For violation of such conditions, **or for violation of a*
 43 *special condition requiring restitution,** parole may be revoked
 43A only for refusal **or failure** to make a good faith effort to make
 43B such payment.

44 h. Upon collection of the fine the same shall be paid over by
 45 the Department of Corrections to the State Treasury, ***[to be**
 46 deposited in a separate account for appropriation to the Violent
 47 Crimes Compensation Board created pursuant to P. L. 1971, c. 317
 48 (C. 52:4B-1 et seq.) in satisfying claims**]***.

1 16. a. Any parolee who violates a condition of parole may be
 2 subject to an order pursuant to section 17 of this act providing for
 3 one or more of the following: (1) That he be required to conform
 4 to one or more additional conditions of parole; (2) That he forfeit
 5 all or a part of commutation time credits granted pursuant to
 6 R. S. 30:4-140.

7 b. Any parolee who has seriously or persistently violated the
 8 conditions of his parole, may have his parole revoked and may be
 9 returned to custody pursuant to sections 18 and 19 of this act.
 10 The board shall be notified immediately upon the arrest or indict-
 11 ment of a parolee. The board shall not revoke parole on the basis

12 of new criminal charges which have not resulted in a disposition
13 at the trial level except that upon application by the ***[prose-**
14 **cutor]*** *prosecuting authority**, the chairman of the board or his
15 designee may at any time detain the parolee and commence revoca-
16 tion proceedings pursuant to sections 18 and 19 of this act when he
17 determines that the new charges against the parolee are of a
18 serious nature and it appears that the parolee otherwise poses a
19 danger to the public safety. **In such case, a parolee shall be*
20 *informed that, if he testifies at the revocation proceedings, his*
21 *testimony and the evidence derived therefrom shall not be used*
22 *against him in a subsequent criminal prosecution.**

23 c. Any parolee who is convicted of a ***[criminal offense]*** *crime**
24 committed while on parole ***[may]*** *shall** have his parole revoked
25 and ***[may]*** *shall** be returned to custody **unless the parolee*
26 *demonstrates, by clear and convincing evidence at a hearing** pur-
27 suant to section 19 of this act*, *that good cause exists why he should*
28 *not be returned to confinement**.

1 17. a. If the parole officer assigned to supervise a parolee has
2 probable cause to believe that the parolee has violated a condition
3 of his parole, such violation not being a basis for return to custody
4 pursuant to subsection b. or c. of section 16, the parole officer may
5 require that the parolee appear before a designated representative
6-8 of the board for a review of the parolee's adjustment.

9 b. If the board's designated representative finds that a parolee
10 has violated a condition of his parole, such violation not being a
11 basis for return to custody pursuant to subsections b. or c. of
12 section 16, the designated representative may subject the parolee
13 to one or both of the actions set forth in subsection a. of section 16.

14 c. A parolee or the parolee's assigned parole officer may apply to
15 the board's designated representative for modification of the
16 conditions of parole.

17 d. Any action to modify the conditions of parole and any for-
18 feiture of commutation time credits shall be appealable to the
19 appropriate board panel, which may take appropriate action
20 **pursuant to subsection 16a. of this act,** but need not conduct a
21 hearing.

1 18. a. If a parole officer assigned to supervise a parolee has
2 probable cause to believe that the parolee has violated a condition
3 of his parole, such violation being a basis for return to custody pur-
4 suant to subsection b. of section 16, a designated representative of
5 the chairman of the board may issue a warrant for the arrest of the
6 parolee **if evidence indicates that the parolee may not appear at*
6A *the preliminary hearing or if the parolee poses a danger to the*

6B *public safety**. With the parole warrant, a law enforcement officer
7 may apprehend the delinquent parolee and cause his return to a
8 facility designated by the Department of Corrections or cause the
9 parolee's confinement in an appropriate institution pending return
10 to a facility designated by the Department of Corrections. Upon en-
11 forcement of the warrant, the appropriate board panel shall be
12 promptly notified. No parolee held in custody on a parole warrant
13 shall be entitled to release on bail.

14 b. A parolee retaken under this section shall within 14 days be
15 granted a preliminary hearing to be conducted by a hearing officer
16 not previously involved in the case, unless the parolee or the hear-
17 ing officer requests postponement of the preliminary hearing, which
18 may be granted by the appropriate board panel for good cause*,
18A *but in no event shall such postponement, if requested by the hearing*
18B *officer, exceed 14 days**.

19 c. The preliminary hearing shall be for the purpose of determin-
20 ing:

21 (1) Whether there is probable cause to believe that the parolee
22 violated a condition of his parole being the basis for return to
23 custody pursuant to subsection b. of section 16, and

24 (2) Whether revocation and return to custody is desirable in the
25 instant matter.

26 d. Prior to the preliminary hearing the parolee shall be provided
27 with written notice of:

28 (1) The conditions of parole alleged to have been violated;

29 (2) The time, date, place and circumstances of the alleged viola-
30 tion;

31 (3) The possible action which may be taken by the board after a
32 parole revocation hearing;

33 (4) The time, date and place of the preliminary hearing;

34 (5) The right pursuant to P. L. 1974, c. 33 (C. 2A:158A-5.1
35 et seq.), to representation by an attorney or such other qualified
36 person as the parolee may retain; and

37 (6) The right to confront and cross-examine witnesses.

38 e. The hearing officer who conducts the hearing shall make a
39 summary or other record of said hearing.

40 f. If the evidence presented at the preliminary hearing does not
41 support a finding of probable cause to believe that the parolee has
42 violated a condition of his parole, such violation being a basis for
43 return to custody pursuant to subsection b. of section 16, or if it is
44 otherwise determined that revocation is not desirable, the hearing
45 officer may, in accordance with the provisions of subsection a. of
46 section 16 and section 17 of this act, issue an order modifying

47 parole and releasing the offender, or continuing parole and releas-
48 ing the offender.

49 g. If the evidence presented at the preliminary hearing supports
50 a finding of probable cause to believe that the parolee has violated
51 a condition of his parole, the hearing officer shall determine whether
52 the parolee shall be retained in custody or released on specific condi-
53 tions pending action by the appropriate board panel.

54 h. Conviction of a ***[criminal offense]*** *crime* committed while
55 on parole shall be deemed to constitute probable cause to believe
56 that the parolee has violated a condition of parole.

1 19. a. If the hearing officer finds probable cause pursuant to
2 subsection c. (1) of section 18 and finds that revocation is desirable
3 pursuant to subsection c. (2) of section 18, or if the parolee is con-
4 victed of a criminal offense committed while on parole, the board
5 shall cause a revocation hearing to be conducted by a hearing
6 officer, other than the hearing officer previously designated **pur-*
7 *suant to section 18 of this act**, within 60 days after the date a
8 parolee is taken into custody as a parole violator unless the parolee
9 or the hearing officer requests postponement of the revocation hear-
10 ing, which may be granted by appropriate board panel for good
10A cause*, *but in no event shall such postponement, if requested by the*
10B *hearing officer, exceed 120 days**.

11 b. Prior to the revocation hearing, the parolee shall be given
12 written notice of:

13 (1) The time, date and place of the parole revocation hearing;

14 (2) The right to pursuant to P. L. 1974, c. 33 (C. 2A:158A-5.1
15 et seq.), to representation by an attorney or such other qualified
16 person as the parolee chooses;

17 (3) The right to confront and cross-examine witnesses, and to
18 rebut documentary evidence against him; and

19 (4) The right to testify, to present evidence and to subpoena
20 witnesses in his own behalf, provided a prima facie showing is
21 made that the prospective witnesses will provide material testi-
22 mony.

23 c. The hearing officer shall maintain a full and complete record
24 of the parole revocation hearing.

25 d. After consideration of all evidence presented, if there is clear
26 and convincing evidence that a parolee has violated the conditions
27 of his parole, such violation being a basis for return to custody pur-
28 suant to subsections b. or c. of section 16, and if revocation and
29 return to custody is desirable in the instant matter, the appropriate
30 board panel may revoke parole and return such parolee to custody,

31 for a specified length of time, or in accordance with the provisions
32 of sections 16 and 17 of this act, or the appropriate board panel
33 may issue an order modifying parole and releasing the offender or
34 continuing parole and releasing the offender.

35 e. Not more than 21 days following the hearing conducted pur-
36 suant to this section, the parolee and his representative shall be
37 informed in writing of the decision, the particular reasons therefor,
38 and the facts relied on.

1 20. a. The board shall develop a schedule of ***[release dates]***
2 **future parole eligibility dates** for parole violators whose
3 parole has been revoked pursuant to section 19 of this act. In
4 developing such schedule particular emphasis shall be placed on the
5 severity and circumstances of a parole violation and on the char-
6 acteristics of the parole violator. The board shall establish special
7 provisions for release of the parole violator to begin serving any
8 new sentence, which emphasize the length of time remaining to be
9 served on the prior sentence and the length of any new sentence.

10 b. No **future parole eligibility date for a** parole violator re-
11 turned to custody for reasons other than new criminal charges
12 shall be ***[ordered confined for parole violation for any period to**
13 *exceed 1 year]** **set more than 1 full year from the date of the*
14 *parolee's return to custody**.

15 c. Any parole violator ordered confined for commission of a
16 ***[criminal offense]*** **crime** while on parole shall serve at least
17 6 months or that portion of the custodial term remaining, which-
18 ever is less, before parole release.

19 d. Any period of confinement for parole violation shall be deemed
20 to be a parole eligibility term for purposes of aggregation pursuant
21 to subsection ***[g.]*** **h.** of section 7.

1 21. ***[a.]** Offenders serving separate parole terms pursuant to
2 N. J. S. 2C:43-9 shall be subject to the provisions of sections 15
3 through 20 of this act, and, pursuant to sections 16 and 17 may
4 forfeit all or part of commutation time credits granted pursuant to
5 R. S. 30:4-140 on the sentence imposed.**]***

6 ***[b.]** The duration of time served prior to parole, plus the dura-
7 tion of any time served on parole, less any time after warrant for
8 retaking of a parolee was issued pursuant to section 18 but before
9 the parolee is arrested, plus the duration of any time served after
10 revocation of parole, shall not exceed the term specified in the
11 original sentence ***[plus any separate parole term under N. J. S.**
12 *2C:43-9.]**.

1 22. The appropriate board panel may give any parolee a complete
 2 discharge from parole prior to the expiration of the full maximum
 3 term for which he was sentenced, provided that such parolee has
 4 made a satisfactory adjustment while on parole, provided that
 5 continued supervision is not required, and provided the parolee has
 6 made full payment of any fine or restitution.

1 23. **a.** The appropriate board panel and the Department of
 2 Corrections may enter into formal agreements with officials of the
 3 board, officials of the Department of Corrections and individual
 4 parolee or inmates reduced to writing and signed by all parties,
 5 which agreements stipulate individual programs of education,
 6 training, or other activity which shall result in a specified reduction
 7 of the parolee's parole term **pursuant to section 22 of this act**
 8 or the inmate's primary parole eligibility date pursuant to sec-
 9 tion 8 of this act, upon such successful completion of the program.
 9A **[The parolee or the inmate shall be given a copy of any such*
 10 *agreement. The board shall promulgate rules and regulations gov-*
 11 *erning parolee and inmate eligibility for such agreements, the*
 12 *components of such agreements, and measurement of perform-*
 13 *ance.]**

14 **b. Any parolee or inmate shall be permitted to apply to the*
 15 *board for such an agreement. The board panel shall review all*
 16 *such applications and may approve any application consistent with*
 17 *eligibility requirements promulgated by the board pursuant to*
 18 *section 4 of this act.*

19 *c. Upon approval of the parolee or inmate's application, the board*
 20 *panel shall be responsible for specifying the components necessary*
 21 *for any such agreement. Upon acceptance of the agreement by the*
 22 *Department of Corrections, by the board panel and by the parolee*
 23 *or the inmate, the board panel shall reduce the agreement to writ-*
 24 *ing. The parolee or inmate and the Department of Corrections shall*
 25 *be given a copy of any such agreement.*

26-29 *d. Any such agreement shall be terminated by the board panel*
 30 *in the event the parolee or inmate fails or refuses to satisfactorily*
 31 *complete each component of the agreement. The inmate or parolee*
 32 *shall be notified in writing of any such termination and the reasons*
 33 *therefor. Any such termination may be appealed to the full board*
 34 *pursuant to section 14 of this act.**

1 24. All records, files and documents of the State Parole Board
 2 created pursuant to P. L. 1948, c. 84 (C. 30:4-123.1 et seq.) shall be
 3 transferred to the board, and all rules, regulations and functions of
 4 the State Parole Board, and the Boards of Trustees relating to

5 parole, shall continue in force until duly modified or repealed by
6 the board.

1 25. Section 18 of P. L. 1971, c. 384 (C. 30:4-1.1) is amended as
2 follows:

3 18. It shall be the duty of the local boards of trustees to advance
4 long-range planning for the medical care, correctional and training
5 programs at their respective institutions; and maintain general
6 oversight of the institution. The board shall not administer the
7 individual institutions.

8 The board of trustees shall have power to:

9 a. Review institutional needs;

10 b. Exercise visitorial supervision over the institution under the
11 supervision or control of the department. Its visitorial general
12 powers of supervision are hereby defined as visiting such institu-
13 tion to examine into its manner of conducting its affair and to
14 advise the commissioner on the observance and enforcement of the
15 laws of the State;

16 c. Develop with the commissioner and his staff and jointly pro-
17 mulgate and maintain a comprehensive master plan which shall be
18 long-range in nature and be regularly revised and updated, includ-
19 ing priorities for the construction of new institutions and the
20 development of new programs;

21 d. Recommend and advise the commissioner on building programs
22 of the institution as required by the master plan, provided that
23 provision is made therefor in the annual or a supplemental or
24 special appropriation act of the Legislature or otherwise;

25 e. Review and comment upon budget requests from the insti-
26 tution;

27 f. Encourage harmonious and cooperative relationship with other
28 similar institutions in the area, public and private;

29 g. Review periodically existing programs of care, training,
30 rehabilitation, research and public service in the institution, and in
31 similar institutions of other states, and advise the State board and
32 the commissioner as to any desirable change.

33 h. Make to the commissioner such recommendations as it deems
34 necessary with regard to services, lands, buildings, and equipment
35 to be furnished by the institution;

36 i. Authorize such studies and require such reports from the chief
37 executive officer of the institution as it may deem necessary from
38 time to time;

39 j. Advise the institutional head;

40 k. Control and determine the use of patient or inmate welfare
41 funds within the general regulation of the State board;

42 l. Interpret the mandate and work of the institution to the public;
 43 m. Carry out such other duties as the commissioner or the State
 44 board may assign to the board or to its individual members【; and
 45 n. Release upon parole, such inmates of their respective institu-
 46 tions heretofore or hereafter committed as they may determine to
 47 be eligible therefor. Whenever, in their judgment, a paroled indi-
 48 vidual has violated the terms, conditions and limitations of his
 49 parole and is unfit to be further at liberty, or if such paroled indi-
 50 vidual shall be convicted of a crime in any court of this State or of
 51 any other state, or of the United States, committed after the issue
 52 of his parole, the board of trustees shall have power to revoke
 53 such parole by an order in writing, signed by the chairman and
 54 attested by the secretary. These powers shall not apply to the
 55 trustees of the State Prison】.

56 *n. *Periodically review existing rules, regulations and policies*
 57 *of the State parole board and advise the parole board as to any*
 58 *desirable or necessary changes.*

59-62 o. *Review the cases of such inmates as may be eligible for parole*
 63 *consideration and provide the appropriate parole board panel with*
 64 *a written recommendation regarding the case. The State parole*
 65 *board shall, prior to considering any inmate for release, provide*
 66 *the boards of trustees with a written notice of all such inmates to*
 67 *be considered. The boards of trustees may, in addition, review the*
 68 *cases of such inmates as may appeal decisions pursuant to sec-*
 69 *tion 14 of this amendatory act and provide the parole board with*
 70 *a written recommendation regarding the case, which shall be con-*
 71 *sidered by the board. The State parole board shall state on the*
 72 *record its reasons for rejecting any recommendation made pur-*
 73 *suant to this section.**

1 26. Section 25 of P. L. 1971, c. 384 (C. 30:4-4a) is amended to read
 2 as follows:

3 25. Whenever in any law, rule, regulation, contract, document,
 4 judicial or administrative proceeding or otherwise, reference is
 5 made to the board of managers of any institution, the same shall
 6 mean and refer to the chief executive officer of the institution【,
 7 except with respect to parole matters as prescribed in article 8 of
 8 chapter 4 of Title 30 of the Revised Statutes, such reference shall
 9 mean and refer to the respective boards of trustees】.

1 *26A. R. S. 30:4-148 is amended to read as follows:

2 30:4-148. The courts in sentencing 【to the Youth Correctional
 3 Institution Complex】 *pursuant to N. J. S. 2C:43-5* shall not fix
 4 or limit the duration of sentence, but the time which any person

5 shall serve in confinement or on parole shall not in any case exceed
 6 5 years or the maximum term provided by law for the crime for
 7 which the prisoner was convicted and sentenced, if such maximum
 8 be less than 5 years; provided, however, that the court, in its discre-
 9 tion, for good cause shown, may impose a sentence greater than
 10 5 years, but in no case greater than the maximum provided by law,
 11 and the commitment shall specify in every case the maximum of
 12 the sentence so imposed. [The term may be terminated by the board
 13 of managers in accordance with its rules and regulations formally
 14 adopted.]*

1 27. The following are repealed:

2 R. S. 30:4-106;

3 R. S. 30:4-108 to 30:4-113;

4 P. L. 1948, c. 84 (C. 30:4-123.1 et seq.);

5 P. L. 1950, c. 30 (C. 30:4-123.40 et seq.);

6 P. L. 1952, c. 32 (C. 30:4-123.43 et seq.) ***[.]*** *;* *

6A *R. S. 30:4-155;

6B R. S. 30:8-28.*

7 The repeal of any of the foregoing acts or parts thereof shall not
 8 revive or be construed to reenact any acts repealed thereby.

1 28. All acts and parts of acts which are inconsistent with the
 2 provisions of this act are, to the extent of such inconsistency,
 3 superseded*, *provided however, that no provisions of the New*
 4 *Jersey Code of Criminal Justice shall be superseded hereby*.*

1 29. Board schedules required pursuant to section 7, 8, 12 and 20
 2 of this act shall, notwithstanding subsection c. of section 4, be
 3 promulgated within 30 days of the effective date of this act.
 4 Schedules so promulgated shall expire on a date established by the
 5 board which shall be not more than 2 years after the date of
 6 adoption.

1 30. There is hereby appropriated for the purposes of this act
 2 the sum of \$335,000.00.

1 31. This act shall take effect ***[120]*** *60* days following enact-
 2 ment ***[or on September 1, 1979, whichever is earlier]***.

ASSEMBLY, No. 3093

STATE OF NEW JERSEY

INTRODUCED JANUARY 25, 1979

By Assemblymen JACKMAN and HERMAN

Referred to Committee on Judiciary, Law, Public Safety and Defense

AN ACT concerning parole, establishing a consolidated State Parole Board, revising procedures for granting parole, amending P. L. 1971, c. 384 and repealing sections 30:4-106 and 30:4-108 to 30:4-113 of the Revised Statutes and P. L. 1948, c. 84, P. L. 1950, c. 30 and P. L. 1952, c. 32.

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

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

1 2. a. This act shall apply to all persons now serving or hereafter
2 sentenced or committed to State correctional facilities and to all
3 persons now serving or hereafter sentenced to county jails, work-
4 houses or penitentiaries.

5 b. In the case of persons now serving sentences or committed,
6 the board hereinafter established may postpone for a reasonable
7 period of time not to exceed 6 months from the effective date of
8 this act the application of this act in order to permit an orderly
9 conversion to the system hereinafter established.

1 3. a. There is hereby created and established within the Depart-
2 ment of Corrections a State Parole Board which shall consist of
3 a chairman and six associate members. The chairman and associate
4 members shall be appointed by the Governor from qualified per-
5 sons with training or experience in law, sociology, criminal justice,
6 juvenile justice or related branches of the social sciences. Members
7 of the board shall be appointed for terms of 6 years, but of the
8 associate members first appointed, one shall be appointed for a
9 term of 1 year, one for a term of 2 years, one for a term of 3 years,
10 one for a term of 4 years, one for a term of 5 years and one for a
11 term of 6 years. Member's terms shall commence on the effective
12 date of this act and the terms of their successors shall be calcu-
13 lated from the expiration of the incumbent's term. Members shall
14 serve until their successors are appointed and have qualified.

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

15 b. Any vacancy occurring in the membership of the board, other-
16 wise than by expiration of term, shall be filled in the same manner
17 as one occurring by expiration of term, but for the unexpired term
18 only. In the event that any member of the board shall be rendered
19 incapable of performing his duties, the Governor shall appoint a
20 qualified person to act in his stead during the period of his inca-
21 pacity. Any member of the board may be removed from office by
22 the Governor for cause.

23 c. The members of the board shall devote their full time to the
24 performance of their duties and be compensated pursuant to sec-
25 tion 2 of P. L. 1974, c. 55.

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

3 b. The chairman of the board shall be the chief executive officer
4 of the board and, after consulting with the board, shall be responsi-
5 ble for designating the time and place of all board meetings, for
6 appointing the board's employees, for organizing, controlling and
7 directing the work of the board and its employees, and for prepara-
8 tion and justification of the board's budget. The professional em-
9 ployees of the board such as, but not limited to, hearing officers,
10 shall serve at the pleasure of the chairman and shall not be subject
11 to the provisions of Title 11 of the Revised Statutes.

12 c. The board shall promulgate such reasonable rules and regu-
13 lations, consistent with this act, as may be necessary for the proper
14 discharge of its responsibilities. The chairman shall file such rules
15 and regulations with the Secretary of State. The provisions of the
16 "Administrative Procedure Act," P. L. 1968, c. 410 (C. 52:14B-1
17 et seq.) shall apply to the promulgation of rules and regulations
18 concerning policy and administration, but not to other actions
19 taken under this act. In determination of its rules and regulations
20 concerning policy and administration, the board shall consult the
21 Governor and the Commissioner of Corrections.

22 d. The board, in conjunction with the Department of Corrections,
23 shall develop a uniform information system in order to closely
24 monitor the parole process.

25 e. The board shall transmit a report of its work for the preceding
26 fiscal year to the Governor and the Legislature annually.

27 f. The board shall give public notice prior to considering any
28 adult inmate for release.

1 5. a. Two associate members of the board shall be appointed by
2 the Governor to a panel on juvenile commitments. The remaining
3 four associate members of the board shall be appointed by the

4 Governor to panels on adult sentences. The chairman of the board
5 shall assign two of the associate members so appointed to a panel
6 on prison sentences and the remaining two associate members so
7 appointed to a panel on young adult sentences. The chairman of
8 the board shall be a member of each panel.

9 b. Except where otherwise noted, parole determinations on in-
10 dividual cases pursuant to this act shall be made by the majority
11 vote of a quorum of the appropriate board panel established pur-
12 suant to this section.

13 c. The chairman of the board, after consulting with the board,
14 shall assign any special case to a board panel as necessary for the
15 efficient functioning of the board.

16 d. Nothing contained in this act shall be deemed to preclude a
17 member of any board panel from exercising all the functions,
18 powers, and duties of a hearing officer upon designation by the
19 chairman.

20 e. No hearing officer assigned to review adult cases shall be
21 assigned to review juvenile cases pursuant to sections 13 and 19 of
22 this act.

1 6. a. The Department of Corrections shall provide such office
2 facilities and clerical assistance as may be necessary to enable the
3 board to perform properly its duties and to keep and maintain the
4 records required herein.

5 b. The Department of Corrections, the chief executive officers and
6 staffs of those facilities assigned to the Department of Corrections,
7 the chief executive officers and staffs of the county jails, work-
8 houses, and penitentiaries and the chief executive officers and staffs
9 of those facilities assigned to the Department of Human Services
10 where inmates or parolees are housed shall render full and com-
11 plete cooperation to the board in the matter of furnishing the board
12 all pertinent data and information relating to particular inmates.
13 It shall also be the duty of the clerk of the court from which the
14 inmate was committed, and of county probation officers and other
15 officials, to forward to the board any commitment order, any pre-
16 sentence report, and the sentencing court's written reasons for any
17 sentence imposed. The board shall in addition have the power to
18 compel the appearance of witnesses and the production of docu-
19 mentary evidence relevant to any proceedings before it. Failure to
20 respond to any subpoena shall carry the penalty prescribed by law
21 for failure to so respond in a county court.

1 7. a. Each adult inmate sentenced to a specific term of years at
2 the State Prison or the correctional institution for women shall
3 become primarily eligible for parole after having served any

4 judicial or statutory mandatory minimum term, or one third of the
5 sentence imposed where no mandatory minimum term has been
6 imposed, less in each instance commutation time for good behavior
7 pursuant to R. S. 30:4-140 and credits for diligent application to
8 work and other institutional assignments pursuant to R. S. 30:4-92.

9 b. Each adult inmate sentenced to a term of life imprisonment
10 shall become primarily eligible for parole after having served any
11 judicial or statutory mandatory minimum term, or 20 years where
12 no mandatory minimum term has been imposed, less in each in-
13 stance commutation time for good behavior and credits for diligent
14 application to work and other institutional assignments. If an
15 inmate sentenced to a specific term or terms of years is eligible for
16 parole on a date later than the date upon which he would be eligible
17 if a life sentence had been imposed, then in such case the inmate
18 shall be eligible for parole after having served 20 years, less com-
19 mutation time for good behavior and credits for diligent application
20 to work and other institutional assignments.

21 c. Each inmate sentenced after September 1, 1979 for a term
22 pursuant to the "Controlled Dangerous Substances Act" P. L.
23 1970, c. 226 (C. 24:2101 through 45) shall become primarily eligible
24 for parole after having served one third of the sentence imposed
25 less commutation time for good behavior and credits for diligent
26 application to work and other institutional assignments.

27 d. Each adult inmate sentenced to an indeterminate term of
28 years as a young adult offender pursuant to N. J. S. 2C:43-5 shall
29 become primarily eligible for parole consideration pursuant to a
30 schedule of primary eligibility dates developed by the board, less
31 adjustment for program participation. In no case shall the board
32 schedule require that the primary parole eligibility date for a young
33 adult offender be greater than primary parole eligibility date re-
34 quired pursuant to this section for the maximum specific term for
35 the crime authorized pursuant to N. J. S. 2C:43-6.

36 e. Each adult inmate sentenced to the Adult Diagnostic and
37 Treatment Center, Avenel, shall become primarily eligible for
38 parole upon recommendation by the special classification review
39 board pursuant to N. J. S. 2C:47-5.

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

42 g. Each adult inmate of a county jail, workhouse or penitentiary
43 shall become primarily eligible for parole upon service of a full 9
44 months of his aggregate sentence. No inmate sentenced to a
45 specific term of years at the State Prison or the correctional in-

46 stitution for women shall become primarily eligible for parole until
47 service of a full 9 months of his aggregate sentence.

48 h. When an inmate is sentenced to more than one term of im-
49 prisonment, the primary parole eligibility terms calculated pur-
50 suant to this section shall be aggregated by the board for the
51 purpose of determining the primary parole eligibility date, except
52 that no juvenile commitment shall be aggregated with any adult
53 sentence. The board shall promulgate rules and regulations to
54 govern aggregation under this subsection.

55 i. The primary eligibility date shall be computed by a designated
56 representative of the board and made known to the inmate in writ-
57 ing not later than 90 days following the commencement of the
58 sentence.

59 j. Each inmate sentenced for a fixed minimum and maximum
60 term or a life term pursuant to R. S. 2A:164-17 or N. J. S. 2C:1-1
61 shall not be primarily eligible for parole on a date computed pur-
62 suant to this section, but shall be primarily eligible on a date com-
63 puted pursuant to P. L. 1948, c. 84 (C. 30:4-123.1 et seq.).

1 8. a. If the appropriate board panel determines that an adult
2 inmate has seriously or persistently violated specifically defined
3 institutional rules or has engaged in conduct indictable in nature
4 while incarcerated, the inmate's parole eligibility date may be in-
5 creased pursuant to a schedule developed by the board. In develop-
6 ing such schedule, particular emphasis shall be placed on the
7 severity of the inmate's conduct.

8 b. If the appropriate board panel determines that an adult in-
9 mate has made exceptional progress, the inmate's parole eligibility
10 date may be decreased, except that no parole eligibility date shall
11 be set below the primary parole eligibility date without the consent
12 of the sentencing court, which need not conduct a hearing.

1 9. a. An adult inmate shall be released on parole at the time of
2 parole eligibility, unless information supplied in the report filed
3 pursuant to section 10 of this act or developed or produced at a
4 hearing held pursuant to section 11 of this act indicates that there
5 is a substantial likelihood that the inmate will commit a crime under
6 the laws of this State if released on parole at such time.

7 b. A juvenile inmate shall be released on parole when it shall
8 appear that the juvenile, if released, will not cause injury to per-
9 sons or substantial injury to property.

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

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

6 b. The report filed pursuant to subsection a. shall contain pre-
7 incarceration records of the inmate, state the conduct of the inmate
8 during the current period of confinement, include an investigation
9 of the inmate's parole plans, and present information bearing upon
10 the likelihood that the inmate will commit a crime under the laws of
11 this State if released on parole.

12 c. A summary of the report filed pursuant to subsection b. of this
13 section shall be served on the inmate at the time it is filed with the
14 board panel. The inmate may file with the board panel a written
15 statement regarding the summary report, but shall do so within
16 105 days prior to the primary parole eligibility date.

1 11. a. Prior to the parole eligibility date of each adult inmate, a
2 designated hearing officer shall review the reports required by
3 section 10 of this act, and shall determine whether there is a basis
4 for denial of parole in the preparole report or the inmate's state-
5 ment, or an indication, reduced to writing, that additional informa-
6 tion providing a basis for denial of parole would be developed or
7 produced at a hearing. If the hearing officer determines that there
8 is no basis in the preparole report or the inmate's statement for
9 denial of parole and that there is no additional relevant informa-
10 tion to be developed or produced at a hearing, he shall at least 60
11 days prior to the inmate's parole eligibility date recommend in
12 writing to the assigned member of the board panel that parole
13 release be granted.

14 b. If the assigned member of the board panel concurs in the
15 hearing officer's recommendation, he shall certify parole release
16 pursuant to section 15 of this act as soon as practicable after the
17 eligibility date and so notify the inmate and the board.

18 c. If the hearing officer or the assigned member determines that
19 there is a basis for denial of parole, or that a hearing is otherwise
20 necessary, the hearing officer or assigned member shall notify the
21 appropriate board panel and the inmate in writing of his determi-
22 nation, and of a date for a parole consideration hearing. Said
23 hearing shall be conducted according to principles of fundamental
24 fairness by the appropriate board panel at least 30 days prior to
25 the eligibility date. The notice of hearing shall inform the inmate
26 of his right to rebut documentary evidence, and to present evidence
27 on his own behalf.

28 d. At the conclusion of the parole consideration hearing, the
29 board panel shall either (1) certify the parole release of the
30 inmate pursuant to section 15 of this act as soon as practicable

31 after the eligibility date and so notify the inmate and the board, or
32 (2) deny parole and file with the board within 30 days of the hear-
33 ing a statement setting forth the decision, the particular reasons
34 therefor, and the facts relied on, a copy of which statement shall be
35 served upon the inmate together with notice of his right to appeal
36 to the board.

37 e. Upon request by the hearing officer or the inmate, the time
38 limitations contained in sections 10 and 11 may be waived by the
39 appropriate board panel for good cause.

1 12. a. The board shall develop a schedule of release dates for
2 adult inmates denied release at their eligibility date. In developing
3 such schedule, particular emphasis shall be placed on the severity
4 of the offense for which he was denied parole and on the character-
5 istics of the offender, such as, but not limited to, the prior criminal
6 record of the inmate and the need for continued incapacitation of
7 the inmate.

8 b. If release on the eligibility date is denied, the board panel
9 which conducted the hearing shall refer to the schedule published
10 pursuant to subsection a., and include in its statement denying
11 parole notice of the date of future parole consideration. If such
12 date differs from the date otherwise established by the schedule,
13 the board panel shall include particular reasons therefor. Such
14 future parole eligibility date shall take into account usual remis-
15 sions of sentence for good behavior and diligent application to
16 work and other assignments. Such future parole eligibility date
17 may also be altered pursuant to section 8 of this act.

18 c. An inmate shall be released on parole on the new parole eligi-
19 bility date unless new information filed pursuant to a procedure
20 identical to that set forth in section 10 indicates that there is a
21 substantial likelihood that the inmate will commit a crime under the
22 laws of this State if released on parole at such time. The determina-
23 tion of whether there is such an indication in the new preparole
24 report or whether there is additional relevant information to be
25 developed or produced at a hearing, and the determination of
26 whether the inmate shall be released on the new parole eligibility
27 date shall be made pursuant to the procedure set forth in sections
28 11 and 12.

1 13. a. An assigned member of the board panel on juvenile commit-
2 ments or a designated hearing officer shall periodically, but not less
3 than quarterly, review the case of each juvenile inmate committed
4 to determine whether release should be granted pursuant to sub-
5 section b. or section 9.

6 b. Such review shall include a personal interview of the inmate
7 by the assigned member or the designated hearing officer.

8 c. If such review is conducted by a hearing officer, the hearing
9 officer shall, at the conclusion of the review, recommend in writing
10 any appropriate action to the assigned member of the panel on
11 juvenile commitments.

12 d. At the conclusion of the review, the assigned member of the
13 board panel shall either (1) certify parole release of the juvenile
14 as soon as practicable, or (2) file with the board a statement setting
15 forth the decision of the member, a copy of which statement shall
16 be served upon the juvenile, the juvenile's parents or guardians,
17 and the court.

18 e. The board panel on juvenile commitments shall at least yearly
19 review the case of each juvenile confined to determine the reasons
20 for the continued confinement of the juvenile. A report of such
21 review shall be forwarded to the board, the Commissioner of Cor-
22 rections and the committing court.

1 14. a. Any denial of parole by a board panel shall be appealable
2 to the full board by the inmate or one acting on the inmate's
3 behalf. If appealed, the full board shall decide the appeal except
4 that any board member who participated in the decision from
5 which the appeal is taken may not participate in the resolution of
6 that appeal. The board shall serve written notice on all parties
7 setting forth the decision, the particular reasons therefor, and the
8 facts relied on.

9 b. The board may upon its own initiative and for good cause, in a
10 timely manner, review the decision of any hearing officer, board
11 member or board panel and take appropriate action.

1 15. a. Each parolee shall at all times remain in the legal custody
2 of the Commissioner of Corrections, and shall remain under parole
3 supervision in accordance with the rules of the board.

4 b. Each parolee shall agree, as evidenced by his signature to abide
5 by specific conditions of parole established by the appropriate board
6 panel which shall be enumerated in writing in a certificate of
7 parole and shall be given to the parolee upon release. Such condi-
8 tions shall include, among other things, a requirement that the
9 parolee conduct himself in society in compliance with all laws and
10 refrain from committing any crime and a requirement that the
11 parolee report at reasonable intervals to an assigned parole
12 officer. In addition, based on prior history of the parolee, the
13 member or board panel certifying parole release pursuant to
14 section 11 may impose any other specific conditions of parole

15 deemed reasonable in order to reduce the likelihood of recurrence
16 of criminal behavior. Such special conditions may include, among
17 other things, a requirement that the parolee make full or partial
18 restitution, the amount of which restitution shall be set by the
19 sentencing court upon request of the board.

20 c. The appropriate board panel may in writing relieve a parolee
21 of any parole conditions, and may permit a parolee to reside
22 outside the State if satisfied that such change will not result in a
23 substantial likelihood that the parolee will commit an offense which
24 would be an offense under the laws of this State. The appropriate
25 board panel may revoke such permission or reinstate relieved
26 parole conditions for any period of time during which a parolee is
27 under its jurisdiction.

28 d. The appropriate board panel may parole an inmate to any
29 residential facility funded in whole or in part by the State. Such
30 facility shall receive the parolee and shall not discharge or other-
31 wise release the parolee without the consent of the board panel.

32 e. The assigned parole officer shall provide assistance to the
33 parolee in obtaining employment, education or vocational training
34 or in meeting other obligations.

35 f. The board panel on juvenile commitments and the assigned
36 parole officer shall insure that the least restrictive available alter-
37 native is used for any juvenile parolee.

38 g. If the board has granted parole to any inmate and the court has
39 imposed a fine on such inmate, the appropriate board panel shall
40 release such inmate on condition that he make specified fine pay-
41 ments to the Bureau of Parole. For violation of such conditions,
42 parole may be revoked only for refusal to make a good faith effort
43 to make such payment.

44 h. Upon collection of the fine the same shall be paid over by
45 the Department of Corrections to the State Treasury to be
46 deposited in a separate account for appropriation to the Violent
47 Crimes Compensation Board created pursuant to P. L. 1971, c. 317
48 (C. 52:4B-1 et seq.) in satisfying claims.

1 16. a. Any parolee who violates a condition of parole may be
2 subject to an order pursuant to section 17 of this act providing for
3 one or more of the following: (1) That he be required to conform
4 to one or more additional conditions of parole; (2) That he forfeit
5 all or a part of commutation time credits granted pursuant to
6 R. S. 30:4-140.

7 b. Any parolee who has seriously or persistently violated the
8 conditions of his parole, may have his parole revoked and may be
9 returned to custody pursuant to sections 18 and 19 of this act.

10 The board shall be notified immediately upon the arrest or indict-
11 ment of a parolee. The board shall not revoke parole on the basis
12 of new criminal charges which have not resulted in a disposition
13 at the trial level except that upon application by the prosecutor,
14 the chairman of the board or his designee may at any time detain
15 the parolee and commence revocation proceedings pursuant to
16 sections 18 and 19 of this act when he determines that the new
17 charges against the parolee are of a serious nature and it appears
18 that the parolee otherwise poses a danger to the public safety.

19 c. Any parolee who is convicted of a criminal offense committed
20 while on parole may have his parole revoked and may be returned
21 to custody pursuant to section 19 of this act.

1 17. a. If the parole officer assigned to supervise a parolee has
2 probable cause to believe that the parolee has violated a condition
3 of his parole, such violation not being a basis for return to custody
4 pursuant to subsection b. or c. of section 16, the parole officer may
5 require that the parolee appear before a designated representative
6-8 of the board for a review of the parolee's adjustment.

9 b. If the board's designated representative finds that a parolee
10 has violated a condition of his parole, such violation not being a
11 basis for return to custody pursuant to subsections b. or c. of
12 section 16, the designated representative may subject the parolee
13 to one or both of the actions set forth in subsection a. of section 16.

14 c. A parolee or the parolee's assigned parole officer may apply to
15 the board's designated representative for modification of the
16 conditions of parole.

17 d. Any action to modify the conditions of parole and any for-
18 feiture of commutation time credits shall be appealable to the
19 appropriate board panel, which may take appropriate action but
20 need not conduct a hearing.

1 18. a. If a parole officer assigned to supervise a parolee has
2 probable cause to believe that the parolee has violated a condition
3 of his parole, such violation being a basis for return to custody pur-
4 suant to subsection b. of section 16, a designated representative of
5 the chairman of the board may issue a warrant for the arrest of the
6 parolee. With the parole warrant, a law enforcement officer may
7 apprehend the delinquent parolee and cause his return to a facility
8 designated by the Department of Corrections or cause the parolee's
9 confinement in an appropriate institution pending return to a
10 facility designated by the Department of Corrections. Upon en-
11 forcement of the warrant, the appropriate board panel shall be
12 promptly notified. No parolee held in custody on a parole warrant
13 shall be entitled to release on bail.

14 b. A parolee retaken under this section shall within 14 days be
15 granted a preliminary hearing to be conducted by a hearing officer
16 not previously involved in the case, unless the parolee or the hear-
17 ing officer requests postponement of the preliminary hearing, which
18 may be granted by the appropriate board panel for good cause.

19 c. The preliminary hearing shall be for the purpose of determin-
20 ing:

21 (1) Whether there is probable cause to believe that the parolee
22 violated a condition of his parole being the basis for return to
23 custody pursuant to subsection b. of section 16, and

24 (2) Whether revocation and return to custody is desirable in the
25 instant matter.

26 d. Prior to the preliminary hearing the parolee shall be provided
27 with written notice of:

28 (1) The conditions of parole alleged to have been violated;

29 (2) The time, date, place and circumstances of the alleged viola-
30 tion;

31 (3) The possible action which may be taken by the board after a
32 parole revocation hearing;

33 (4) The time, date and place of the preliminary hearing;

34 (5) The right pursuant to P. L. 1974, c. 33 (C. 2A:158A-5.1
35 et seq.), to representation by an attorney or such other qualified
36 person as the parolee may retain; and

37 (6) The right to confront and cross-examine witnesses.

38 c. The hearing officer who conducts the hearing shall make a
39 summary or other record of said hearing.

40 f. If the evidence presented at the preliminary hearing does not
41 support a finding of probable cause to believe that the parolee has
42 violated a condition of his parole, such violation being a basis for
43 return to custody pursuant to subsection b. of section 16, or if it is
44 otherwise determined that revocation is not desirable, the hearing
45 officer may, in accordance with the provisions of subsection a. of
46 section 16 and section 17 of this act, issue an order modifying
47 parole and releasing the offender, or continuing parole and releas-
48 ing the offender.

49 g. If the evidence presented at the preliminary hearing supports
50 a finding of probable cause to believe that the parolee has violated
51 a condition of his parole, the hearing officer shall determine whether
52 the parolee shall be retained in custody or released on specific condi-
53 tions pending action by the appropriate board panel.

54 h. Conviction of a criminal offense committed while on parole
55 shall be deemed to constitute probable cause to believe that the
56 parolee has violated a condition of parole.

1 19. a. If the hearing officer finds probable cause pursuant to
2 subsection c. (1) of section 18 and finds that revocation is desirable
3 pursuant to subsection c. (2) of section 18, or if the parolee is con-
4 victed of a criminal offense committed while on parole, the board
5 shall cause a revocation hearing to be conducted by a hearing
6 officer, other than the hearing officer previously designated, within
7 60 days after the date a parolee is taken into custody as a parole
8 violator unless the parolee or the hearing officer requests post-
9 ponement of the revocation hearing, which may be granted by
10 appropriate board panel for good cause.

11 b. Prior to the revocation hearing, the parolee shall be given
12 written notice of:

13 (1) The time, date and place of the parole revocation hearing;

14 (2) The right to pursuant to P. L. 1974, c. 33 (C. 2A:158A-5.1
15 et seq.), to representation by an attorney or such other qualified
16 person as the parolee chooses;

17 (3) The right to confront and cross-examine witnesses, and to
18 rebut documentary evidence against him; and

19 (4) The right to testify, to present evidence and to subpoena
20 witnesses in his own behalf, provided a prima facie showing is
21 made that the prospective witnesses will provide material testi-
22 mony.

23 c. The hearing officer shall maintain a full and complete record
24 of the parole revocation hearing.

25 d. After consideration of all evidence presented, if there is clear
26 and convincing evidence that a parolee has violated the conditions
27 of his parole, such violation being a basis for return to custody pur-
28 suant to subsections b. or c. of section 16, and if revocation and
29 return to custody is desirable in the instant matter, the appropriate
30 board panel may revoke parole and return such parolee to custody,
31 for a specified length of time, or in accordance with the provisions
32 of sections 16 and 17 of this act, or the appropriate board panel
33 may issue an order modifying parole and releasing the offender or
34 continuing parole and releasing the offender.

35 e. Not more than 21 days following the hearing conducted pur-
36 suant to this section, the parolee and his representative shall be
37 informed in writing of the decision, the particular reasons therefor,
38 and the facts relied on.

1 20. a. The board shall develop a schedule of release dates for
2 parole violators whose parole has been revoked pursuant to section
3 19 of this act. In developing such schedule particular emphasis shall
4 be placed on the severity and circumstances of a parole violation
5 and on the characteristics of the parole violator. The board shall

6. establish special provisions for release of the parole violator to
7 begin serving any new sentence, which emphasize the length of time
8 remaining to be served on the prior sentence and the length of any
9 new sentence.

10 b. No parole violator returned to custody for reasons other than
11 new criminal charges shall be ordered confined for parole violation
12 for any period to exceed 1 year.

13 c. Any parole violator ordered confined for commission of a
14 criminal offense while on parole shall serve at least 6 months or that
15 portion of the custodial term remaining, whichever is less, before
16 parole release.

17 d. Any period of confinement for parole violation shall be deemed
18 to be a parole eligibility term for purposes of aggregation pursuant
19 to subsection g. of section 7.

1 21. a. Offenders serving separate parole terms pursuant to
2 N. J. S. 2C:43-9 shall be subject to the provisions of sections 15
3 through 20 of this act, and, pursuant to sections 16 and 17 may
4 forfeit all or part of commutation time credits granted pursuant to
5 R. S. 30:4-140 on the sentence imposed.

6 b. The duration of time served prior to parole, plus the duration
7 of any time served on parole, less any time after warrant for
8 retaking of a parolee was issued pursuant to section 18 but before
9 the parolee is arrested, plus the duration of any time served after
10 revocation of parole, shall not exceed the term specified in the
11 original sentence plus any separate parole term under N. J. S.
12 2C:43-9.

1 22. The appropriate board panel may give any parolee a complete
2 discharge from parole prior to the expiration of the full maximum
3 term for which he was sentenced, provided that such parolee has
4 made a satisfactory adjustment while on parole, provided that
5 continued supervision is not required, and provided the parolee has
6 made full payment of any fine or restitution.

1 23. The appropriate board panel and the Department of Correc-
2 tions may enter into formal agreements with officials of the board,
3 officials of the Department of Corrections and individual parolees
4 or inmates reduced to writing and signed by all parties, which
5 agreements stipulate individual programs of education, training,
6 or other activity which shall result in a specified reduction of the
7 parolee's parole term or the inmate's primary parole eligibility
8 date pursuant to section 8 of this act, upon such successful com-
9 pletion of the program. The parolee or the inmate shall be given
10 a copy of any such agreement. The board shall promulgate rules
11 and regulations governing parolee and inmate eligibility for such

12 agreements, the components of such agreements, and measurement
13 of performance.

1 24. All records, files and documents of the State Parole Board
2 created pursuant to P. L. 1948, c. 84 (C. 30:4-123.1 et seq.) shall be
3 transferred to the board, and all rules, regulations and functions of
4 the State Parole Board, and the Boards of Trustees relating to
5 parole, shall continue in force until duly modified or repealed by
6 the board.

1 25. Section 18 of P. L. 1971, c. 384 (C. 30:4-1.1) is amended as
2 follows:

3 18. It shall be the duty of the local boards of trustees to advance
4 long-range planning for the medical care, correctional and training
5 programs at their respective institutions; and maintain general
6 oversight of the institution. The board shall not administer the
7 individual institutions.

8 The board of trustees shall have power to:

9 a. Review institutional needs;

10 b. Exercise visitorial supervision over the institution under the
11 supervision or control of the department. Its visitorial general
12 powers of supervision are hereby defined as visiting such institu-
13 tion to examine into its manner of conducting its affair and to
14 advise the commissioner on the observance and enforcement of the
15 laws of the State;

16 c. Develop with the commissioner and his staff and jointly pro-
17 mulgate and maintain a comprehensive master plan which shall be
18 long-range in nature and be regularly revised and updated, includ-
19 ing priorities for the construction of new institutions and the
20 development of new programs;

21 d. Recommend and advise the commissioner on building programs
22 of the institution as required by the master plan, provided that
23 provision is made therefor in the annual or a supplemental or
24 special appropriation act of the Legislature or otherwise;

25 e. Review and comment upon budget requests from the insti-
26 tution;

27 f. Encourage harmonious and cooperative relationship with other
28 similar institutions in the area, public and private;

29 g. Review periodically existing programs of care, training,
30 rehabilitation, research and public service in the institution, and in
31 similar institutions of other states, and advise the State board and
32 the commissioner as to any desirable change.

33 h. Make to the commissioner such recommendations as it deems
34 necessary with regard to services, lands, buildings, and equipment
35 to be furnished by the institution;

36 i. Authorize such studies and require such reports from the chief
37 executive officer of the institution as it may deem necessary from
38 time to time;

39 j. Advise the institutional head;

40 k. Control and determine the use of patient or inmate welfare
41 funds within the general regulation of the State board;

42 l. Interpret the mandate and work of the institution to the public;

43 m. Carry out such other duties as the commissioner or the State
44 board may assign to the board or to its individual members; and

45 n. Release upon parole, such inmates of their respective institu-
46 tions heretofore or hereafter committed as they may determine to
47 be eligible therefor. Whenever, in their judgment, a paroled indi-
48 vidual has violated the terms, conditions and limitations of his
49 parole and is unfit to be further at liberty, or if such paroled indi-
50 vidual shall be convicted of a crime in any court of this State or of
51 any other state, or of the United States, committed after the issue
52 of his parole, the board of trustees shall have power to revoke
53 such parole by an order in writing, signed by the chairman and
54 attested by the secretary. These powers shall not apply to the
55 trustees of the State Prison].

1 26. Section 25 of P. L. 1971, c. 384 (C. 30:4-4a) is amended to read
2 as follows:

3 25. Whenever in any law, rule, regulation, contract, document,
4 judicial or administrative proceeding or otherwise, reference is
5 made to the board of managers of any institution, the same shall
6 mean and refer to the chief executive officer of the institution[,
7 except with respect to parole matters as prescribed in article 8 of
8 chapter 4 of Title 30 of the Revised Statutes, such reference shall
9 mean and refer to the respective boards of trustees].

1 27. The following are repealed:

2 R. S. 30:4-106;

3 R. S. 30:4-108 to 30:4-113;

4 P. L. 1948, c. 84 (C. 30:4-123.1 et seq.);

5 P. L. 1950, c. 30 (C. 30:4-123.40 et seq.);

6 P. L. 1952, c. 32 (C. 30:4-123.43 et seq.).

7 The repeal of any of the foregoing acts or parts thereof shall not
8 revive or be construed to reenact any acts repealed thereby.

1 28. All acts and parts of acts which are inconsistent with the
2 provisions of this act are, to the extent of such inconsistency,
3 superseded.

1 29. Board schedules required pursuant to section 7, 8, 12 and 20
2 of this act shall, notwithstanding subsection c. of section 4, be
3 promulgated within 30 days of the effective date of this act.

4 Schedules so promulgated shall expire on a date established by the
5 board which shall be not more than 2 years after the date of
6 adoption.

1 30. There is hereby appropriated for the purposes of this act
2 the sum of \$335,000.00.

1 31. This act shall take effect 120 days following enactment or on
2 September 1, 1979, whichever is earlier.

STATEMENT

This bill repeals existing parole statutes and replaces them with an omnibus parole statute which is designed to consolidate State paroling authorities; to introduce more consistency, objectivity and predictability into the parole process; and to eliminate many problem areas in existing law which have led to inequities in the administration of parole. Sections one through six create a seven member State Parole Board which would consist of a chairperson and six associate members. All members would be appointed by the Governor with the advice and consent of the Senate, and would reflect the various social, economic and ethnic groups in the State's population. The board would exercise parole jurisdiction over all juveniles and adults committed or sentenced to State correctional facilities and those sentenced to county facilities. The board members would be assigned to parole panels which would consider inmates according to the type of sentence received.

Sections seven through fourteen provide for parole release proceedings. Inmates sentenced prior to the effective date of the New Jersey Code of Criminal Justice would be eligible for parole under current legislation. Parole eligibility for state prison inmates sentenced under the new code is established at one-third of the maximum sentence unless a judicial or statutory mandatory minimum sentence is set. Parole eligibility for young adult offenders sentenced to the Youth Correctional Complex would be established by a Parole Board eligibility schedule similar to the current practice of the United States Parole Commission. Parole eligibility would be the same for multiple offenders, since sentencing judges would take prior offenses into account in sentencing inmates to extended terms of imprisonment. Section nine provides that the Parole Board will deny parole to achieve the incapacitation of dangerous criminal offenders.

Sections fifteen through twenty-three provide for parole supervision and parole revocation proceedings. Criminal fines collected

from parolees will be paid over to the State Treasury for appropriation to the Violent Crimes Compensation Board. Parole may be revoked if the parolee is guilty of serious or persistent violations of the conditions of parole set by the board, or if the parolee is convicted of a new offense. A system of less serious penalties is established for less serious violations. Parole revocation proceedings are consistent with the provisions of the United States Supreme Court decision *Morrissey v. Brewer*, 408 U.S. 471 (1972), 92 Sup. Ct. 2593, 33 L. Ed. 2nd 484, including a preliminary probable cause hearing and a revocation hearing. The specific rights of the parolee and the standards for revocation are set forth.

ASSEMBLY JUDICIARY, LAW, PUBLIC SAFETY AND
AND DEFENSE COMMITTEE

STATEMENT TO
ASSEMBLY, No. 3093

STATE OF NEW JERSEY

DATED: DECEMBER 3, 1979

This bill repeals the existing parole statutes, procedures and authorities and replaces them with an omnibus parole statute. The goal of the bill is to make the parole process more consistent, predictable, objective and efficient. This will contribute to the effectiveness of parole as a tool for reducing recidivism, and will contribute to the maintenance of institutional order. The official reports on the riots in Rahway State Prison and in Attica Prison, cited uncertainties about parole and perceptions of injustice in the parole process as key causes of the riots.

In summary, the bill operates in three major ways. First, it abolishes the paroling authority of the institutional boards of trustees at the Youth Correctional Institution Complex, the Correctional Institution for Women and the training schools, and gives that paroling authority to an expanded State Parole Board. By Assembly Judiciary, Law, Public Safety and Defense Committee amendment, the institutional boards retain advisory powers on parole matters. Second, the bill establishes a series of parole procedures, to accord the statutory law with constitutional due process required by court rulings and with administrative procedure found to be most efficient and effective.

Third, the bill modifies existing parole standards, to accord with the new sentencing provisions of the Penal Code. The bill modifies initial parole eligibility for repeat offenders. The current parole law provides for variously extended parole eligibility for repeat offenders, from one-third to four-fifths of maximum sentence. This bill provides for the same initial parole eligibility, one-third of sentence, for all offenders who do not have a mandatory minimum which they must serve before parole. This provision is in recognition of the broad powers in the Code to give a repeat offender an extended term and/or a mandatory minimum. Thus, the Code plus this bill move the authority to incarcerate repeat offenders for extended periods from the parole process to the sentencing process. The bill also modifies the burden of proof as to parole release. Having attained his parole eligibility date, the existing law requires the inmate to prove he is fit to be released. This bill would require the authorities to show that the inmate is likely to commit a crime if he is released on parole. This shift accords with the existing practicalities of parole procedure, complements the generally

longer sentences of the new Criminal Code, and renders the process more objective and consistent. The practicalities of parole procedure are such that the likelihood that the inmate will recidivate is in fact the key issue in granting or withholding parole: the inmate was imprisoned for committing a crime; the State's main interest once parole eligibility has been reached, and the punitive and retributive aspects of the sentence have thereby been satisfied, is to ensure that he does not commit another crime. Placing the burden of proof on the authorities also accords with existing practicalities: it is impossible for a man to prove he will not do something; in practice, the authorities have to present evidence to show he is likely to do something. This shift also renders the decision-making process more objective, cutting down the wide discretion that paroling authorities have under current law, and making the more closely subject to statutory prescriptions. Finally, this shift complements the longer sentences of the Code in further moving the power to incarcerate, the power to decide how long a convict should serve in order to satisfy the punitive and retributive aspects of a sentence, from the parole process to the sentencing process. The Code has prepared for this by providing that in determining a sentence, a judge must specifically consider parole eligibility as a factor (N. J. S. 2C:43-2d.).

More specifically, the provisions of the bill are:

Sections one through six create a seven member State Parole Board which would consist of a chairperson and six associate members. All members would be appointed by the Governor with the advice and consent of the Senate, and would reflect the various social, economic and ethnic groups in the State's population. The board would exercise parole jurisdiction over all juveniles committed and adults sentenced to State correctional facilities and those sentenced to county facilities. The board members would be assigned to parole panels which would consider inmates according to the type of sentence received.

Sections seven through fourteen provide for parole release proceedings. Parole eligibility for state prison inmates sentenced under the new code is established at one-third of the maximum sentence unless a judicial or statutory mandatory minimum sentence is set. Parole eligibility for young adult offenders sentenced to the Youth Correctional Complex and the Correctional Institution for Women would be established by a Parole Board eligibility schedule similar in format to that used by the United States Parole Commission. Parol eligibility would be the same for multiple offenders, since sentencing judges would take prior offenses into account in sentencing inmates to extended terms of imprisonment. Section nine provides that the Parole Board will deny parole to achieve the incapacitation of dangerous criminal offenders.

Sections fifteen through twenty-three provide for parole supervision and parole revocation proceedings. Parole may be revoked if the parolee is guilty of serious or persistent violations of the conditions of parole set by the board, or if the parolee is convicted of a new offense. A system of less serious penalties is established for less serious violations. Parole revocation proceedings are consistent with the provisions of the United States Supreme Court decision *Morrissey v. Brewer*, 408 U.S. 471 (1972), 92 Sup. Ct. 2593, 33 L. Ed. 2nd 484, including a preliminary probable cause hearing and a revocation hearing. The specific rights of the parolee and the standards for revocation are set forth.

The definitions on page 1, section 1 are for clarity. Definitions (1) and (2) are to make clear that a juvenile is someone sentenced to an indeterminate sentence under the law governing delinquency and is to be distinguished from an adult for purposes of parole, as in section 7f of the bill and 9b. Definitions (5) and (6) reaffirm in statutory form what is present policy and practice.

The amendment on page 1, section 2a, line 1 is to clarify that this section does not make the bill operate retroactively, and to avoid a conflict with section 7j of the bill.

The amendment on page 1, section 3, line 4 makes the appointment of Parole Board members subject to the advice and consent of the Senate.

The amendment on page 2, section 3, after line 25 shifts the position of section 5a. of the bill and ensures that once board members have been appointed to panels, they will not subsequently be shifted to other panels.

The amendment on page 2, section 4, line 2 requires that policy decisions be made by a majority of the total board members.

The amendment on page 2, section 4, after line 2 shifts the position of section 5b. of the bill.

The amendment on page 2, section 4b, line 8 is to clarify which parole board employees will be covered by civil service and other guarantees and which will not.

The amendment on page 2, section 4, line 8 is to clarify that while some Corrections personnel may do work under this act, they are not covered by these personnel provisions.

The amendments on page 2, section 4c, line 18 and on page 2, section 4c, line 19 clarify that the procedures of the Administrative Procedure Act do not apply to parole hearings and reviews, and that the Board will, consistent with the requirements of this bill and the Constitution, and in consultation with the Governor and the Commissioner of Corrections, develop its own procedures.

The amendment on page 2, section 4d, line 24 specifies that New Jersey should, as has previously been recommended by legislative report, participate in the NCCD uniform parole reports.

The amendment on page 2, section 4e, line 26 specifies recidivism as a subject of annual report by the Parole Board, and specifies that such information be sent to the Criminal Disposition Commission established by the new Penal Code, so that the commission's recommendations on sentencing can be coordinated with the parole process to help develop the maximum effect for corrections.

The amendment on page 2, section 4g, line 28 reflects the fact that juveniles, under N. J. S. 2A:4-61h, are sentenced to indeterminate sentences and are immediately eligible for parole. This amendment gives the prosecutor and the judge the chance to object if one or both feel that, given their knowledge of the juvenile and the case, a juvenile is being considered too soon for parole release.

The amendment on page 3, section 5c, line 14 clarifies what was originally termed "special" cases is a category of cases, of state prisoners in county facilities, and not specific individuals.

The amendment on page 3, section 5d, line 19 clarifies that the same Parole Board member may not make the initial parole decision on an inmate and then sit on the panel which reviews that initial decision.

The amendment on page 3, section 5e, line 22 clarifies that different board members do juvenile cases and adult cases, and that their case loads will not be mixed.

The amendment on page 3, section 5f, after line 22 reflects the fact that the Parole Board relies on Corrections employees to do some serving of warrants and some data collecting and data processing, as in section 7i. of the bill.

The amendment on page 3, section 6a., line 21 reflects the recent abolition of the county courts.

The amendments on page 4, section 7a., lines 6, 8 and 20 eliminates the use of "good time" credits, earned under N. J. S. 30:4-140 for the purpose of accelerating parole eligibility where a judicial or statutory mandatory minimum term has been set. Where the statute or judge has determined that a set minimum should be served before parole eligibility, this decision should not be modified by the use of credits earned in prison.

However, commutation credits can accrue while the mandatory minimum is being served, and, once that mandatory minimum is served, will be applied.

The amendments on page 4, section 7b, lines 11-13 and page 4, section 7b, line 18 comport the definition of life imprisonment with that of the Penal Code, N. J. S. 2C:43-7b.

The amendment on page 4, section 7c, line 21 reflects the fact that the new Penal Code has gone into effect since the drafting of this bill.

The amendment on page 4, section 7d, lines 34-35 is technical, to better comport with the Penal Code.

The amendment on page 4, section 7e., line 39 confirms that the parole eligibility of Adult Diagnostic and Treatment Center sex offender inmates is subject to any mandatory minimum they may have been sentenced to, as under 2C:14-6.

The amendment on page 5, section 7i, line 58 should eliminate disputes about whether inmates received the appropriate notices.

The amendment on page 5, section 7j, line 59 provides a modification of parole eligibility for certain repeat offenders sentenced under the pre-criminal code law. This is a compromise provision. Absent any mandatory minimum, the current law provides a parole eligibility for first offenders at one-third of the maximum sentence, for second offenders at one-half, for third offenders at two-thirds, for fourth offenders at four-fifths. Absent any mandatory minimum, this act provides for parole eligibility for all offenders, sentenced under the new Penal Code, at one-third. This amendment would provide that, subject to the veto of the prosecutor or sentencing judge, currently incarcerated inmates classified as second, third or fourth offenders become eligible for parole after one-third, one-half or two-thirds of the maximum sentence. This amendment balances the desire to fulfill the punitive intent of the sentence with the desire to equalize the treatment of current prisoners with that of new prisoners, and thereby achieve the full effect of this act and help maintain institutional order.

The amendment on page 5, section 8a, line 7 clarifies that an inmate shall not be subject to "double jeopardy" in having loss of "good time" deducted twice for the same violation of institutional rules.

The amendment on page 5, section 8b, line 9 defines "exceptional progress" which, as one of the "contract parole" provisions of the bill, might accelerate parole eligibility, but in no case can a mandatory minimum term be reduced by such procedure.

The amendment on page 5, section 8c, line 12 ensures that inmates will be kept up to date on their parole status and what they must do to increase their chances of parole.

The amendment on page 5, section 9a, line 4 provides the standard of proof which must be shown to overcome an adult inmate's presumption of parole release when he reaches his parole eligibility date. It also provides that parole decisions must be stated on the record.

The amendment on page 6, section 10b, line 8 specifies some of the material which must be in the institutional parole report filed with the Parole Board, prior to a parole determination.

The amendment on page 6, section 10c, lines 12-14 provides that the inmate shall get a copy of the institutional parole report, minus certain confidential material.

The amendment on page 6, section 11c, line 23 et seq. outlines the format of a parole hearing: informal, receiving any relevant and reliable evidence, all of which, minus any confidential material, shall be disclosed to the inmate who shall be permitted rebuttal; decisions based solely on the hearing evidence.

The amendment on page 7, section 11d, line 34 provides that the the statement of reasons for parole denial, which must be furnished to the inmate, may omit confidential material.

The amendment on page 7, section 12a, line 1 is technical.

The amendment on page 7, section 12c, line 20 complements that on page 5, section 9a, line 4.

The amendment on page 8, section 13b, line 7 outlines the preliminary procedure for a juvenile parole case.

The amendment on page 8, section 14a, line 1 requires the Board to establish criteria for appeals from a Board Panel to the full Parole Board.

The amendment on page 8, section 14a, line 5 is technical.

The amendment on page 8, section 14b, line 11 specifies that the Parole Board may on its own initiative review parole release or parole revocation decisions and take action to give or revoke parole.

The amendment on page 8, section 14c, after line 11 sets up a procedure for rescision of parole, suspension of parole release date, for an inmate about whom new information has been discovered.

The amendment on page 8, section 15, lines 2-3 is technical.

The amendment on page 8, section 15b, line 10 outlines another specific condition of parole.

The amendment on page 9, section 15, line 22 ties this act in with two New Jersey statutes dealing with out-of-state parolees.

The amendment on page 9, section 15c, line 24 clarifies that a parolee may be relieved of some parole conditions if there is no substantial likelihood that he will commit a crime.

The amendment on page 9, section 15d, lines 29-31 clarifies that an inmate who would not be released on street parole may be paroled to a residential facility, such as a half-way house.

The amendments on page 9, section 15, lines 38 and 45-48 comport this bill with two other pending bills dealing with fines and the Crimes Compensation Board.

The amendment on page 9, section 15g, lines 41-43 specifies refusal or failure to make good faith efforts at required restitution as a ground for parole revocation.

The amendment on page 10, section 16b, line 13 is technical.

The amendment on page 10, section 16b, line 18 clarifies the due process right of a parolee who testifies at a revocation hearing prior to a criminal prosecution for the same charge.

The amendment on page 10, section 16c, lines 19-20 outlines the criteria and procedures for revoking parole subsequent to new criminal conviction.

The amendment on page 10, section 17d, line 19 specifies the action that a board panel may take in modifying parole conditions.

The amendment on page 10, section 18a, line 6 provides the criteria for taking a parolee into custody prior to a parole revocation hearing, which include danger to the public as well as possibility of absconding.

The amendment on page 11, section 18b, line 18 sets a limit on the postponement of a preliminary hearing for a parolee taken into custody for parole violation.

The amendment on page 11, section 18h, line 54 is technical.

The amendment on page 12, section 19a, line 10 sets a limit on the postponement of a parole revocation hearing where probable cause has been found.

The amendment on page 12, section 20a, line 1 are technical.

The amendment on page 13, section 20b, line 10 et seq. clarifies that the first parole eligibility date for persons whose parole has been revoked for reasons other than new criminal convictions shall be within 1 year of return to custody.

The amendments on page 13, section 20c, line 14 and on page 13, section 20d, line 19 are technical.

The amendment on page 13, section 21a, line 1 is in conformity with P. L. 1979, chapter 178 (section 86A of Senate Bill 3203), which deletes N. J. S. 20:43-9b of the Penal Code, which had provided a separate parole term for every sentence of imprisonment.

The amendments on page 13, section 21b., lines 6 and 11 are technical.

The amendments on pages 13-14, section 23, line 1 et seq. elaborate the procedures for establishing and terminating "contract parole" arrangements between inmates and the Parole Board or Department of Corrections.

The amendments on page 15, section 25, after line 55 establish an advisory role for the institutional boards of trustees on parole policy and on individual parole cases. The State Parole Board must formally solicit this advice and formally respond to it.

The amendment on page 15, section 26, after line 9 provides for the same sentencing and paroling practices for men and women sentenced as young adult offenders to the Youth Correctional Complex and to

Clinton Correctional Institute for Women, in accord with the Supreme Court rulings on the subject. The amendment complements the repeal by amendment of 30:4-155 in section 27 of the bill.

The amendments also eliminate the paroling authority of the boards of managers at the Youth Correctional Institution and the Correctional Institution for Women.

The amendment on page 15, section 27, lines — repeals 30:8-28, a special parole provision for prisoners in county jails.

The amendment on page 15, section 28, line 3 guarantees the supremacy of the provisions of the Criminal Code in case there is any conflict with this parole act.

The amendment on page 16, section 31, line 1 shortens the period between enactment and effect.

SENATE LAW, PUBLIC SAFETY AND DEFENSE
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 3093

STATE OF NEW JERSEY

DATED: DECEMBER 10, 1979

Assembly Bill No. 3093, the Parole Act of 1979, repeals existing statutes relating to parole and parole procedures and replaces them with the provisions contained therein. The stated goal of Assembly Bill No. 3093 is to make the parole system more consistent, predictive, objective and efficient. The major provisions of Assembly Bill No. 3093 include the following:

1. Expansion of the authority and size of the State Parole Board.

The bill would abolish the paroling authority of the institutional boards of trustees at the Youth Correctional Complex, the Correction Institution for Women, and the training schools. However, the institutional boards would retain advisory powers on parole matters. The paroling authority of these bodies would be shifted to an expanded parole board which would consist of a chairman and six associate members. The board would be appointed by the Governor with the advice and consent of the Senate. The members would serve for terms of six years. Thus, the Parole Board would have paroling authority over all adults and juveniles sentenced to state and county correctional facilities.

2. Parole Eligibility.

Under Assembly Bill No. 3093, all adults sentenced to a specific term of years, except those sentenced to a judicially or statutorily set mandatory minimum sentence, would be eligible after serving $\frac{1}{3}$ of their sentence less good time credits. Good time credits could not, however, be used to reduce a mandatory minimum sentence.

This basic eligibility requirement would eliminate extended parole eligibility for repeat offenders. Under present law, second offenders are eligible after serving $\frac{1}{2}$ of their term, third offenders after $\frac{2}{3}$ of their term, and fourth offenders after serving $\frac{4}{5}$ of their sentence. The rationale for elimination of extended eligibility for repeaters lies in the new sentencing structure of the penal code which gives the sentencing court the authority to impose extended terms and mandatory minimums. It is felt the decision with regard to repeat offenders belongs in the sentencing court rather than with the parole process.

Adult offenders sentenced to indeterminate sentences as youthful offenders would be eligible for parole pursuant to a schedule promulgated by the board.

As under present law, inmates serving a life sentence when no mandatory term has been imposed would be eligible for parole after serving 25 years less good time.

Also, as under present law, juveniles would be immediately eligible for parole upon incarceration.

3. Retroactivity.

An issue somewhat related to the question of parole eligibility is the question of retroactivity, that is what effect would enactment have on the eligibility for parole of those already incarcerated. Assembly Bill No. 3093 would not affect first offenders. As under present law, they would be eligible for parole after serving $\frac{1}{3}$ of their sentence.

Assembly Bill No. 3093 would have an effect on the parole eligibility status of repeat offenders. Second offenders who would have been eligible after serving $\frac{1}{2}$ of their sentence would be eligible after serving $\frac{1}{3}$, third offenders who would have been eligible after serving $\frac{2}{3}$ of their sentence would be eligible after $\frac{1}{2}$, and fourth offenders $\frac{2}{3}$ of their sentence instead of $\frac{3}{4}$. If, however, the prosecuting attorney or sentencing court objected to this reduction in eligibility date, the amount of time which would have been reduced by this formula would be cut in half.

4. Burden of Proof with regard to Parole Release.

Having reached his parole eligibility date, an inmate must, under present law, prove his fitness to be released in order to be granted parole. Assembly Bill No. 3093 provides that an inmate would be paroled on his primary eligibility date unless the State proves "by a preponderance of the evidence that there is a substantial likelihood that the inmate will commit a crime if released. . . ."

Various rationales are offered for this shift in the burden of proof with regard to parole. First, it is felt that this shift better complements the generally longer sentence of the code and that the power to decide how long a convict should be imprisoned belongs to the sentencing court rather than the parole board.

Secondly, it is argued that the shift better reflects the practicalities of the parole process. Since the key issue in determining fitness for parole is the question of recidivism and since it is impossible for a person to prove he will not do something, the present practice is for the authorities to present evidence showing a likelihood of future criminal activity in order for there to be a denial of parole. Thus, it is felt that in shifting the burden, Assembly Bill No. 3093 merely confirms statutory law to the practical dynamics of the parole process.

The third reason offered for the shift in burden is the hope that it will make the parole process more consistent and predictable. The official reports on the Rahway and Attica riots cited uncertainties about parole and perceptions of injustice in the parole process as key causes of the riots.

5. Other Points of Interest.

1. Assembly Bill No. 3093 carries an appropriation of \$335,000.00.
 2. It establishes parole revocation proceedings consistent with the provisions of the U. S. Supreme Court decision in *Morrissey v. Brewer*, 408 U. S. 471 (1972).
 3. The board does have the authority to reduce a parole eligibility date if the inmate has made exceptional progress and if the sentencing court consents or if the inmate satisfactorily completes an individual program of rehabilitation. However, neither of these provisions can be used to reduce a statutorily or judicially set minimum sentence.
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February 21, 1980

ASSEMBLY BILL NO. 3093 (OCR)

STATEMENT

Pursuant to Article V, Section 1, Paragraph 15 of the Constitution, I am appending to Assembly Bill 3093 (OCR) at the time of signing it, this statement of the items or parts thereof, to which I object so that each item, or part thereof, so objected, shall not take effect.

On Page 21, Section 30, Line 2: The appropriation of \$335,000.00
for the purposes of this Act is
reduced to \$70,000.00.

This bill represents a major revision of our Parole legislation; it was introduced with my support and effects changes in our parole system which I believe are desirable and important. The need for a \$335,000 appropriation was calculated based on an effective date of September 1, 1979; it had been hoped at the time of introduction that this bill would become effective at the same time as the new Penal Code. Since the effective date will be April 21, 1980, the appropriation must be reduced accordingly.

Respectfully,



GOVERNOR

Attest:

Harold L. Hodges
CHIEF OF STAFF, SECRETARY

FROM THE OFFICE OF THE GOVERNOR

FOR FURTHER INFORMATION

FEBRUARY 21, 1980

FOR FURTHER INFORMATION

KATHRYN FORSYTH

Governor Brendan Byrne today signed the Parole Act of 1979 in a public ceremony in his office.

The bill, A-3093, was sponsored by Assembly Speaker Christopher J. Jackman (D-Hudson). It provides for the first major overhaul in the state's parole statutes since the current system was established in 1948. The bill is effective April 21, 1980.

The Governor reduced the appropriation in the bill from \$335,000, which was based on a September 1, 1979 effective date, to \$70,000 for the period from the new effective date to the end of the current fiscal year.

Under the current system, there are four separate paroling authorities: the State Parole Board, which considers the cases of the inmates in the state prisons, and the Boards of Trustees at the Youth Correctional Complex, the Correctional Institution for Women and the State Training School for Boys and Girls. The State Parole Board is full-time; the other three authorities are part-time, volunteer citizens' boards.

In addition, each board has established different policies and procedures. This has resulted in a great disparity in the length of time inmates actually serve in different correctional facilities.

A-3093 abolishes the four authorities and creates a consolidated, full-time professional board consisting of a chairman and six associate members. The members will be appointed to three separate panels to consider parole cases according to the type of sentence; juvenile court commitments, adult reformatory sentences and adult state prison sentences.

Appellate review and policy decisions will be the responsibility of the board as a whole.

The bill sets legislative parole standards that parallel the determinate sentencing provisions in the new penal code and establishes the following parole eligibility for each type of offender:

-more-

16 shortage the Legislature has determined to authorize local units

-- State Prison inmates: one third of the sentence, less credits, except when the sentencing court has imposed a minimum term for parole;

-- Life terms: the minimum term set by the sentencing court or 25 years less credits;

-- Youthful offenders: the bill requires the board to set an eligibility schedule;

-- Sex offenders: the review board makes a recommendation, provided that any court-imposed minimum has been served;

-- Juveniles: immediate eligibility, although the board is permitted to adopt a schedule under the bill;

-- County jail inmates: nine months.

The bill eliminates the "multiple offender" status for parole purposes. The court will take the defendant's past record into consideration when imposing the sentence. This is consistent with the sentencing philosophy of the new penal code.

The measure also establishes new standards for granting parole for both adult and juvenile inmates.

An adult inmate will be released at the time of parole eligibility, unless the board can give strong evidence that "there is a substantial likelihood that the inmate will commit a crime under the laws of this state if released on parole at the time." The board must provide the inmate with a statement as to its reasons for denial.

A juvenile inmate will be released on parole "when it shall appear that the juvenile, if released, will not cause injury to persons or substantial injury to property."

The bill also codifies and standardizes the due process requirements at the various stages of the parole process.

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16 shortage the Legislature has determined to authorize local units