

LEGISLATIVE HISTORY CHECKLIST

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(Parole eligibility)

NJSA: 30:4-123.53

LAWS OF: 1997 CHAPTER: 213

BILL NO: A21

SPONSOR(S): Holzapfel and others

DATE INTRODUCED: February 20, 1997

COMMITTEE: ASSEMBLY: Law & Public Safety

SENATE: Law & Public Safety

AMENDED DURING PASSAGE: Yes Amendments during passage denoted by superscript numbers
Second reprint enacted

DATE OF PASSAGE: ASSEMBLY: March 13, 1997

SENATE: June 26, 1997

DATE OF APPROVAL: August 19, 1997

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes

COMMITTEE STATEMENT: ASSEMBLY: Yes

SENATE: Yes

FISCAL NOTE: No

VETO MESSAGE: No

MESSAGE ON SIGNING: Yes

FOLLOWING WERE PRINTED:

REPORTS: Yes

HEARINGS: No

Report mentioned in statements:

- 974.90 New Jersey. Parole Study Commission.
- P959 Report...December, 1996. Trenton, 1996.
- 1996a [see especially pp. 9-22, 24-27]

See newspaper clippings--attached:

- "Tougher parole standards became law," 8-20-97, Philadelphia Inquirer.
- "N.J. enacts sweeping reform of parole law," 8-20-97, Asbury Park Press.

KBP:pp

[Passed Both Houses]

[Second Reprint]

ASSEMBLY, No. 21

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 20, 1997

By Assemblyman HOLZAPFEL, Assemblywoman CRECCO,
Assemblymen Blee, Geist, Assemblywoman Heck, Assemblymen
Kramer, LeFevre, Talarico, Azzolina, Assemblywoman Allen,
Assemblymen Zecker, DeSopo, O'Toole, Senators Martin,
Zane, Ciesla, Matheussen, Sinagra, Sacco and McGreevey

1 AN ACT concerning the standard for parole release and amending
2 P.L.1979, c.441.

3

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

6

7 1. Section 9 of P.L.1979, c.441 (C.30:4-123.53) is amended to
8 read as follows:

9 9. a. An adult inmate shall be released on parole at the time of
10 parole eligibility, unless information supplied in the report filed
11 pursuant to section 10 of **[this act]** P.L.1979, c.441 (C. 30:4-123.54)
12 or developed or produced at a hearing held pursuant to section 11 of
13 **[this act]** P.L.1979, c.441 (C.30:4-123.55) indicates by a
14 preponderance of the evidence that **[there is a substantial likelihood]**
15 the inmate has failed to cooperate in his or her own rehabilitation or
16 that there is a reasonable expectation that the inmate will **[commit a**
17 **crime under the laws of this State]** violate conditions of parole
18 imposed pursuant to section 15 of P.L.1979, c.441 (C.30:4-123.59) if
19 released on parole at **[such]** that time. In reaching such
20 determination, the board panel or board shall state on the record the
21 reasons therefor.

22 b. A juvenile inmate shall be released on parole when it shall
23 appear that the juvenile, if released, will not cause injury to persons or

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly ALP committee amendments adopted March 3, 1997.

² Senate SLP committee amendments adopted June 16, 1997.

1 substantial injury to property.

2 (cf: P.L.1979, c.441, s.9)

3

4 2. Section 12 of P.L.1979, c.441 (C.30:4-123.56) is amended to
5 read as follows:

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

13 b. If the release on the eligibility date is denied, the board panel
14 which conducted the hearing shall refer to the schedule published
15 pursuant to subsection a., and include in its statement denying parole
16 notice of the date of future parole consideration. If such date differs
17 from the date otherwise established by the schedule, the board panel
18 shall include particular reasons therefor. ~~Such~~ The future parole
19 eligibility date shall not be altered to take into account ~~usual~~
20 remissions of sentence for good behavior and diligent application to
21 work and other assignments~~[. Such]; provided however, the~~ future
22 parole eligibility date may ~~also~~ be altered pursuant to section 8 of
23 ~~this act~~ P.L.1979, c. 441 (C.30:4-123.52).

24 c. An inmate shall be released on parole on the new parole
25 eligibility date unless ~~new~~ information filed pursuant to a procedure
26 identical to that set forth in section 10 ~~of P.L.1979, c.441 (C.30:4-~~
27 123.54) indicates by a preponderance of the evidence that ¹~~there is~~
28 ~~a substantial likelihood~~ the inmate has failed to cooperate in his or
29 her own rehabilitation or that there is a reasonable expectation¹ that
30 the inmate will ¹~~commit a crime under the laws of this State~~ violate
31 conditions of parole imposed pursuant to section 15 of P.L.1979.
32 c.441 (C.30:4-123.59)¹ if released on parole at ¹~~such~~ that¹ time.
33 The determination of whether ~~there is such an indication in the new~~
34 ~~preparole report or whether there is additional relevant information to~~
35 ~~be developed or produced at a hearing, and the determination of~~
36 ~~whether~~ the inmate shall be released on the new parole eligibility date
37 shall be made pursuant to the procedure set forth in ~~sections~~ section
38 11 of P.L.1979, c.441(C.30:4-123.55) and ~~12~~ this section.

39 (cf: P.L.1979, c.441, s.12)

40

41 3. This act shall take effect immediately ²~~and apply to persons~~
42 ~~whose parole eligibility date arises on or after the effective date of this~~
43 ~~act~~².

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2

3 Allows board to consider all relevant information at subsequent parole
4 hearings, changes parole standard, eliminates certain credits to inmates
5 denied parole.

1 criminal record of the inmate and the need for continued
2 incapacitation of the inmate.

3 b. If the release on the eligibility date is denied, the board panel
4 which conducted the hearing shall refer to the schedule published
5 pursuant to subsection a., and include in its statement denying parole
6 notice of the date of future parole consideration. If such date differs
7 from the date otherwise established by the schedule, the board panel
8 shall include particular reasons therefor. **【Such】** The future parole
9 eligibility date shall not be altered to take into account **【usual】**
10 remissions of sentence for good behavior and diligent application to
11 work and other assignments**【. Such】**; provided however, the future
12 parole eligibility date may **【also】** be altered pursuant to section 8 of
13 **【this act】** P.L.1979, c. 441 (C.30:4-123.52).

14 c. An inmate shall be released on parole on the new parole
15 eligibility date unless **【new】** information filed pursuant to a procedure
16 identical to that set forth in section 10 of P.L.1979, c.441 (C.30:4-
17 123.54) indicates by a preponderance of the evidence that there is a
18 substantial likelihood that the inmate will commit a crime under the
19 laws of this State if released on parole at such time. The
20 determination of whether **【there is such an indication in the new**
21 **preparole report or whether there is additional relevant information**
22 **to be developed or produced at a hearing, and the determination of**
23 **whether】** the inmate shall be released on the new parole eligibility date
24 shall be made pursuant to the procedure set forth in **【sections】**section
25 11 of P.L.1979, c.441(C.30:4-123.55) and **【12】**this section.
26 (cf: P.L.1979, c.441, s.12)

27

28 3. This act shall take effect immediately and apply to persons
29 whose parole eligibility date arises on or after the effective date of this
30 act.

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STATEMENT

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35 This bill is based upon recommendations of the Study Commission
36 on Parole. The bill changes the standard by which the parole board
37 determines whether an inmate should be paroled, allows the parole
38 board to weigh all relevant information in an inmate's record when
39 considering that inmate's parole eligibility at second and subsequent
40 hearings and eliminates good time and work credits for inmates denied
41 parole. It prohibits the parole of an inmate who has not cooperated in
42 his or her own rehabilitation while in prison. The bill also prohibits
43 parole in cases where a reasonable expectation exists, and is stated in
44 the record by the board, that an inmate would violate one of the
45 statutory conditions by which parolees must abide upon release. These

1 conditions include: compliance with all laws; a prohibition on the
2 possession of a firearm and on the use, possession or distribution of
3 drugs; strict supervision by a parole officer; and any other specific
4 conditions the parole board may impose to reduce the likelihood of
5 future criminal behavior by the parolee.

6 Under existing law, the parole board may refuse to grant parole to
7 an inmate only if information provided in a preparole report to the
8 board or developed at a parole hearing indicates by a preponderance
9 of the evidence that a substantial likelihood exists the inmate will
10 commit another crime. This bill would grant more discretion to the
11 board in these matters.

12 Also under existing law, upon the second and subsequent review of
13 parole eligibility, the parole board is required to release the inmate on
14 parole unless new information obtained in a new preparole report or
15 produced at the hearing indicates by a preponderance of the evidence
16 that there is a substantial likelihood the inmate will commit a crime
17 upon release. Under the bill's provisions, at the second and subsequent
18 parole hearings, the parole board would not be required to base its
19 decision strictly on information developed since the previous denial
20 of parole, but could consider information provided at earlier parole
21 hearings. The commission described the provision permitting the
22 parole board to consider only new information in a subsequent parole
23 decision "one of the most significant and inappropriate limitations that
24 existing law places on the board's discretion."

25 Finally, the bill eliminates the use of good time and work credits to
26 accelerate an inmate's future eligibility date after the inmate was
27 denied parole. The Study Commission on Parole found that the period
28 of incarceration after parole denial offers the inmate an opportunity to
29 address unresolved issues, including mental health and substance abuse
30 problems. The commission stated that accelerating the eligibility date
31 in such cases "only reinforces the public perception that inmates
32 actually serve less time than required by the original sentence ... or the
33 parole board."

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38 Allows board to consider all relevant information at subsequent parole
39 hearings, changes parole standard, eliminates certain credits to inmates
40 denied parole.

ASSEMBLY LAW AND PUBLIC SAFETY COMMITTEE

STATEMENT TO

ASSEMBLY, No. 21

with committee amendments

STATE OF NEW JERSEY

DATED: MARCH 3, 1997

The Assembly Law and Public Safety Committee reports favorably Assembly Bill No. 21 with committee amendments.

Assembly Bill No. 21 amends the provisions of the "Parole Act of 1979" (P.L.1979, c.441; C.30:4-123.45 et seq.) to change the standard by which the parole board determines whether an inmate should be paroled, allow the parole board to weigh all relevant information in an inmate's record when considering that inmate's parole eligibility at second and subsequent hearings and eliminate good time and work credits for inmates denied parole. The bill also prohibits the parole of an inmate who has not cooperated in his or her own rehabilitation while in prison and prohibits parole in those cases where there is a reasonable expectation that the inmate would violate one of the statutorily mandated conditions of parole. (Those conditions include: compliance with all laws; a prohibition on the possession of a firearm and the use, possession or distribution of drugs; strict supervision by a parole officer; and any other specific conditions the parole board may impose to reduce the likelihood of future criminal behavior by the parolee.)

Currently, under section 9 of P.L.1979, c.441 (C.30:4-123.53), the parole board may refuse to grant parole to an inmate only if information provided in a preparole report to the board or developed at a parole hearing indicates by a preponderance of the evidence that a substantial likelihood exists the inmate will commit another crime. This bill would grant more discretion to the board in these matters.

Similarly, under section 12 of P.L.1979, c.441 (C.30:4-123.56), the parole board currently is required to release any inmate who has been previously denied parole unless new information obtained in a new preparole report or produced at the hearing indicates by a preponderance of the evidence that there is a substantial likelihood the inmate will commit a crime upon release. Under the bill's provisions, at the second and subsequent parole hearings, the parole board would not be required to base its decision strictly on information developed since the previous denial of parole, but could consider information provided at earlier parole hearings. The Governor's Study Commission on Parole described the provision permitting the parole

board to consider only new information in a subsequent parole decision as "one of the most significant and inappropriate limitations that existing law places on the board's discretion."

Finally, the bill eliminates the use of good time and work credits to accelerate an inmate's future eligibility date after the inmate was denied parole. The Study Commission on Parole found that the period of incarceration after parole denial offers the inmate an opportunity to address unresolved issues, including mental health and substance abuse problems. The commission stated that accelerating the eligibility date in such cases "only reinforces the public perception that inmates actually serve less time than required by the original sentence ... or the parole board."

The committee, at the sponsor's request, amended the bill to bring the two sections of law into conformity with regard to the grounds for denying an inmate parole. As amended, the bill establishes the same ground for denial at both the initial review and at the second (or any subsequent) review.

The provisions of this bill are based upon the recommendations of the Governor's Study Commission on Parole.

SENATE LAW AND PUBLIC SAFETY COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 21

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 16, 1997

The Senate Law and Public Safety Committee reports favorably and with committee amendments Assembly Bill No. 21 (1R).

This bill amends the provisions of the "Parole Act of 1979" (P.L.1979, c.441; C.30:4-123.45 et seq.) to change the standard by which the parole board determines whether an inmate should be paroled, allow the parole board to weigh all relevant information in an inmate's record when considering that inmate's parole eligibility at second and subsequent hearings and eliminate good time and work credits for inmates denied parole. The bill also prohibits the parole of an inmate who has not cooperated in his or her own rehabilitation while in prison and prohibits parole in those cases where there is a reasonable expectation that the inmate would violate one of the statutorily mandated conditions of parole. This standard would be applicable at both the initial review and at the second or any subsequent review.

Currently, under section 9 of P.L.1979, c.441 (C.30:4-123.53), the parole board may refuse to grant parole to an inmate only if information provided in a preparole report to the board or developed at a parole hearing indicates by a preponderance of the evidence that a substantial likelihood exists the inmate will commit another crime. This bill would grant more discretion to the board in these matters.

Similarly, under section 12 of P.L.1979, c.441 (C.30:4-123.56), the parole board currently is required to release any inmate who has been previously denied parole unless new information obtained in a new preparole report or produced at the hearing indicates by a preponderance of the evidence that there is a substantial likelihood the inmate will commit a crime upon release. Under the bill's provisions, at the second and subsequent parole hearings, the parole board would not be required to base its decision strictly on information developed since the previous denial of parole, but could consider information provided at earlier parole hearings. The Governor's Study Commission on Parole described the provision permitting the parole board to consider only new information in a subsequent parole decision as "one

of the most significant and inappropriate limitations that existing law places on the board's discretion."

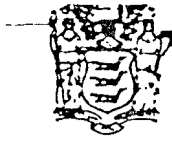
Finally, the bill eliminates the use of good time and work credits to accelerate an inmate's future eligibility date after the inmate was denied parole. The Study Commission on Parole found that the period of incarceration after parole denial offers the inmate an opportunity to address unresolved issues, including mental health and substance abuse problems. The commission stated that accelerating the eligibility date in such cases "only reinforces the public perception that inmates actually serve less time than required by the original sentence ... or the parole board."

The provisions of this bill are based upon the recommendations of the Governor's Study Commission on Parole.

The committee adopted an amendment to make the bill effective immediately upon enactment.

As amended and released by the committee, this bill is identical to the Senate Substitute for Senate Bill No. 339.

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OFFICE OF THE GOVERNOR NEWS RELEASE

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TRENTON, NJ 08625
RELEASE: TUESDAY
Aug. 19, 1997

Governor Strengthens the New Jersey Parole System

Gov. Christie Whitman today signed a series of parole bills that will toughen standards for inmate release, limit the use of certain credits given to criminals, mandate psychological testing for some inmates eligible for parole and allow crime victims to testify during parole hearings.

"Our new parole laws will better protect our families, give victims more control and keep violent criminals behind bars where they belong," Gov. Whitman said. "These bills will work hand-in-hand with other crime-fighting laws we have put on the books which are helping to tell the right story about crime and punishment: crime is down and punishment is up."

The Governor signed the bills at ceremonies at police headquarters in Jersey City in Hudson County and Washington Township police headquarters in Gloucester County.

"The legislation that I signed today culminates the work that began when I created the Study Commission on Parole two years ago," the Governor said. "In the past, we had a system that better protected lethal felons than it did law-abiding families. Today, we are changing our parole statutes to shift the balance back where it belongs -- on the side of public safety."

The new legislation allows the state Parole Board greater discretion and more control during parole hearings.

For example, the board can now examine an inmate's entire record at all parole hearings to determine whether that person would present a danger to the public's safety. Previously, if an inmate was denied parole during an initial hearing, the only information about that criminal that could be used during subsequent hearings was what the inmate's behavior was since his or her prior hearing. An inmate's full record was not allowed to be considered.

The Governor also established a Parole Advisory Board to review supervision issues, develop and implement drug and alcohol treatment programs and comment on all other inmate issues when requested by the Commissioner of Corrections.

Victims of crime and the families of murder victims now will not only have input into the Parole Board's determination of whether to grant parole, but also into the special conditions of that parole. The board can now impose special conditions to parole based on a victim's request such as

prohibiting the parolee from entering the victim's home, school or place of business or placing restraints against the parolee from harrassing or stalking the victim..

Several of the bills being signed today will amend the Parole Act of 1979 by implementing recommendations made in the Governor's Study Commission on Parole.

Throughout her administration Gov. Whitman has enacted strong laws such as: Megan's Law; Three Strikes; Joan's Law; the Law Enforcement Officers' Protection Act; and the No Early Release Act which forces violent criminals to serve at least 85 percent of their sentence.

Attached is a list of bills signed by the Governor today.

###

Bills Gov. Whitman signed in Jersey City:

- ***More information available to the Parole Board***
The bill changes the standard that the Parole Board uses when determining whether an inmate should be paroled. It allows the Parole Board to weigh information in an inmate's record when considering the inmate's parole eligibility at second and subsequent hearings. It also prohibits the use of good time and work credits to accelerate a future parole eligibility date after an initial denial of parole. The bills A-21 / S-339 were sponsored by Assembly Members James W. Holzapfel (R-Monmouth / Ocean) and Marion Crecco (R-Essex / Passaic) and Senators Robert J. Martin (R-Essex / Morris / Passaic), Raymond J. Zane (D-Salem / Cumberland / Gloucester), Andrew R. Ciesla (R-Monmouth / Ocean) and John J. Matheussen (R-Camden / Gloucester).
- ***Medical parole***
The bill establishes special medical parole for certain inmates who are terminally ill or severely incapacitated. The bills, A-22 / S-2001, were sponsored by Assembly members James W. Holzapfel (R- Monmouth / Ocean) and Charlotte Vandervalk (R-Bergen) and Senators Andrew R. Ciesla (R-Monmouth / Ocean) and John J. Matheussen (R-Camden / Gloucester).
- ***Establishment of Parole Advisory Board***
The bill establishes a Parole Advisory Board that will be in, but not of, the Bureau of Parole. The board would review and comment on supervision issues, the development and implementation of drug and alcohol treatment programs for parolees, and any issues requested by the Commissioner of Corrections. The advisory board may make recommendations to the Commissioner of Corrections, the Parole Board, the Governor and the Legislature. It will also sponsor conferences with criminal justice administrators and community members. The bills, A-25 / S-2203, were sponsored by Assembly Members Joseph Azzolina (R-Middlesex/Monmouth) and Francis J. Blee (R-Atlantic) and Senator Louis F. Kosco (R-Bergen).
- ***Criminals' psychological makeup to be evaluated***
The bill requires that pre-parole and pre-sentence reports include the disposition of prior charges filed against a potential parolee that were suspended due to mental incompetence. It also requires that some defendants and inmates undergo psychological examinations and permits the state to obtain reimbursement from defendants, inmates and health insurers. The bills, A-489 / 685, were sponsored by Assembly members Joel Weingarten (R-Essex / Union), Kevin J. O'Toole (R-Essex / Union) and Charles Zisa (D-Bergen).

Bills Gov. Whitman signed in Washington Township

- ***Risk-assessment evaluations enhanced***
The bill implements three recommendations of the Governor's Study Commission on Parole by amending three sections of the Parole Act of 1979. It establishes risk assessment evaluations for inmates eligible for parole, allows the boards to mandate in-depth psychological evaluations to assess an inmate's suitability for parole, and requires that all psychological reports are prepared in connection with any court proceeding to be included in the pre-parole report required under current law. The bills, A-23 / S-2204, were sponsored by Assembly members Carmine DeSopo (R-Burlington/Camden) and Guy F. Talarico (R-Bergen) and Senator Louis F. Kosco (R-Bergen).
- ***Victims and families of victims to have input***
The bill allows victims and the families of murder victims to have input not only in the Parole Board's determination of whether to grant parole, but also into the special conditions of parole. The bill strengthens the rights of crime victims in the parole process. The bills, A-24 / S-1949, were sponsored by Assembly Members George F. Geist (R-Camden / Gloucester) and Rose Heck (R-Bergen) and Senator John P. Scott (R- Bergen / Essex / Passaic).
- ***Organizational changes to Parole Board***
The bill provides for organizational changes to the State Parole Board. It establishes a vice-chairman and permanent alternate member on the board. The bills, A-26 / S-2202, were sponsored by Assembly members Kevin J. O'Toole (R-Essex / Union) and Barbara Wright (R-Mercer / Middlesex) and Senator Louis F. Kosco (R-Bergen).