

30:4-123.54

LEGISLATIVE HISTORY CHECKLIST

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(Parole reports)

NJSA: 30:4-123.54 et al; 2C:44-6

LAWS OF: 1997 CHAPTER: 216

BILL NO: S489

SPONSOR(S): Weingarten and others

DATE INTRODUCED: May 6, 1996

COMMITTEE: ASSEMBLY: Appropriations; Judiciary
SENATE: Judiciary

AMENDED DURING PASSAGE: Yes Assembly Committee Substitute
(2R) A489/A685 enacted

DATE OF PASSAGE: ASSEMBLY: September 26, 1996
SENATE: June 19, 1997

DATE OF APPROVAL: August 19, 1997

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes

COMMITTEE STATEMENT: ASSEMBLY: Yes 5-20-96 & 6-20-96
SENATE: Yes

FISCAL NOTE: No

VE TO MESSAGE: No

MESSAGE ON SIGNING: Yes

FOLLOWING WERE PRINTED:

REPORTS: Yes

HEARINGS: No

974.90 New Jersey. Supreme Court. Committee to Reveiw the Conrad Jeffre
C929 Matter.
1995b Report...October, 1995. Trenton, 1995.

974.90 New Jersey. Study Commission on Parole.
P959 Report..., December, 1996. Trenton, 1996.
1996a [see especially pp. 29-31]

[Passed Both Houses]

[Second Reprint]

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, Nos. 489 and 685

STATE OF NEW JERSEY

ADOPTED MAY 20, 1996

Sponsored by Assemblymen WEINGARTEN, O'TOOLE, ZISA,
Assemblywoman J.Smith, Assemblymen Roma, DiGaetano,
Azzolina, DeSopo, Asselta, Blee, T.Smith, Corodemus, Lance,
Geist, Zecker, Assemblywomen Crecco, Heck, Assemblymen
Malone, Cottrell, Gibson, Assemblywoman Allen,
Assemblymen LeFevre and Kelly

1 AN ACT concerning preparole and presentence reports and amending
2 and supplementing² P.L.1979, c.441 and N.J.S.2C:44-6.

3

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

6

7 1. Section 10 of P.L.1979, c.441 (C.30:4-123.54) is amended to
8 read as follows:

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

14 b. (1) The report filed pursuant to subsection a. shall contain
15 preincarceration records of the inmate, including any history of civil
16 commitment¹ [or other], any¹ disposition which arose out of any
17 charges suspended pursuant to N.J.S.2C:4-6 including records of the
18 disposition of those charges and any acquittals by reason of insanity
19 pursuant to N.J.S.2C:4-1 , state the conduct of the inmate during the
20 current period of confinement, include a complete report on the

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 AAP committee amendments adopted June 20, 1996.

² Senate SJU committee amendments adopted June 5, 1997.

1 inmate's social~~[,] and~~ physical ~~[and mental]~~ condition, ¹~~[include a~~
2 complete psychiatric evaluation of the inmate,]¹ include an
3 investigation by the Bureau of Parole of the inmate's parole plans, and
4 present information bearing upon the likelihood that the inmate will
5 commit a crime under the laws of this State if released on parole.
6 ¹The report shall also include a complete ²~~[psychiatric]psychological~~²
7 evaluation of the inmate in any case in which the inmate was convicted
8 of a first or second degree crime involving violence and:

9 (1) the inmate has a prior acquittal by reason of insanity pursuant
10 to N.J.S.2C:4-1 or had charges suspended pursuant to N.J.S.2C:4-6;
11 or

12 (2) the inmate has a prior conviction for murder pursuant to
13 N.J.S.2C:11-3, aggravated sexual assault or sexual assault pursuant to
14 N.J.S.2C:14-2, kidnapping pursuant to N.J.S.2C:13-1, endangering the
15 welfare of a child which would constitute a crime of the second degree
16 pursuant to N.J.S.2C:24-4, ²~~[and]or~~² stalking which would constitute
17 a crime of the third degree pursuant to ²~~[N.J.S.2C:24-4] P.L.1992,~~
18 c.209 (C.2C:12-10) ²; or

19 (3) the inmate has a prior diagnosis of psychosis.

20 The inmate shall disclose any information concerning any history
21 of civil commitment.¹

22 (2) At the time of sentencing, the prosecutor shall notify any
23 victim injured as a result of a crime of the first or second degree or the
24 nearest relative of a murder victim of the opportunity to present a
25 statement for the parole report to be considered at the parole hearing
26 or to testify to the parole board concerning his harm at the time of the
27 parole hearing. Each victim or relative shall be responsible for
28 notifying the board of his intention to submit such a statement and to
29 provide an appropriate mailing address.

30 The report may include a statement concerning the continuing
31 nature and extent of any physical harm or psychological or emotional
32 harm or trauma suffered by the victim, the extent of any loss of
33 earnings or ability to work suffered by the victim and the continuing
34 effect of the crime upon the victim's family. At the time public notice
35 is given that an inmate is being considered for parole pursuant to this
36 section, the board shall also notify any victim or nearest relative who
37 has previously contacted the board of the availability to provide a
38 statement for inclusion in the parole report or to present testimony at
39 the parole hearing.

40 The board shall notify such person at his last known mailing
41 address.

42 c. A copy of the report filed pursuant to subsection a. of this
43 section, excepting those documents which have been classified as
44 confidential pursuant to rules and regulations of the board or the
45 Department of Corrections, shall be served on the inmate at the time

1 it is filed with the board panel. The inmate may file with the board
2 panel a written statement regarding the report, but shall do so within
3 105 days prior to the primary parole eligibility date.

4 d. Upon receipt of the public notice pursuant to section 1 of
5 P.L.1979, c.441 (C.30:4-123.45), a county prosecutor may request
6 from the parole board a copy of the report on any adult inmate
7 prepared pursuant to subsection a. of this section, which shall be
8 expeditiously forwarded to the county prosecutor by the parole board
9 by mail, courier, or other means of delivery. Upon receipt of the
10 report, the prosecutor has 10 working days to review the report and
11 notify the parole board of the prosecutor's comments, if any, or notify
12 the parole board of the prosecutor's intent to provide comments. If
13 the county prosecutor does not provide comments or notify the parole
14 board of the prosecutor's intent to provide comments within the 10
15 working days, the parole board may presume that the prosecutor does
16 not wish to provide comments and may proceed with the parole
17 consideration. Any comments provided by a county prosecutor shall
18 be delivered to the parole board by the same method by which the
19 county prosecutor received the report. The confidentiality of the
20 contents in a report which are classified as confidential shall be
21 maintained and shall not be disclosed to any person who is not
22 authorized to receive or review a copy of the report containing the
23 confidential information.

24 e. Any provision of this section to the contrary notwithstanding,
25 the board shall by rule or regulation modify the scope of the required
26 reports and time periods for rendering such reports with reference to
27 county penal institutions.
28 (cf: P.L.1985, c.44, s.2)

29

30 2. N.J.S.2C:44-6 is amended to read as follows:

31 2C:44-6. Procedure on Sentence; Presentence Investigation
32 and Report.

33 a. The court shall not impose sentence without first ordering a
34 presentence investigation of the defendant and according due
35 consideration to a written report of such investigation when required
36 by the Rules of Court. The court may order a presentence
37 investigation in any other case.

38 b. The presentence investigation shall include an analysis of the
39 circumstances attending the commission of the offense, the defendant's
40 history of delinquency or criminality, family situation, financial
41 resources, including whether or not the defendant is an enrollee or
42 covered person under a health insurance contract, policy or plan,
43 debts, including any amount owed for a fine, assessment or restitution
44 ordered in accordance with the provisions of Title 2C, employment
45 history, personal habits, the disposition of any charge made against any

1 codefendants [and may include a report on his physical and mental
2 condition], the defendant's history of civil commitment ¹[or other]
3 ,any¹ disposition ¹[if any,] ¹which arose out of charges suspended
4 pursuant to N.J.S.2C:4-6 including the records of the disposition of
5 those charges and any acquittal by reason of insanity pursuant to
6 N.J.S.2C:4-1, and any other matters that the probation officer deems
7 relevant or the court directs to be included. ¹The defendant shall
8 disclose any information concerning any history of civil commitment. ¹
9 The report shall also include a medical history of the defendant and a
10 complete ²[psychiatric] psychological ²evaluation of the defendant
11 ¹in any case in which the defendant is being sentenced for a first or
12 second degree crime involving violence and:

13 (1) the defendant has a prior acquittal by reason of insanity
14 pursuant to N.J.S.2C:4-1 or had charges suspended pursuant to
15 N.J.S.2C:4-6; or

16 (2) the defendant has a prior conviction for murder pursuant to
17 N.J.S.2C:11-3, aggravated sexual assault or sexual assault pursuant to
18 N.J.S.2C:14-2, kidnapping pursuant to N.J.S.2C:13-1, endangering the
19 welfare of a child which would constitute a crime of the second degree
20 pursuant to N.J.S.2C:24-4, ²[and]or² stalking which would constitute
21 a crime of the third degree pursuant to ²[N.J.S.2C:24-4]P.L.1992,
22 c.209 (C.2C:12-10)²; or

23 (3) the defendant has a prior diagnosis of psychosis.

24 The court, in its discretion and considering all the appropriate
25 circumstances, may waive the medical history and ²[psychiatric]
26 psychological² examination in any case in which a term of
27 imprisonment ²[includes] including ²a period of parole ineligibility
28 is imposed. ¹ In any case involving a conviction of N.J.S.2C:24-4,
29 endangering the welfare of a child; N.J.S.2C:18-3, criminal trespass,
30 where the trespass was committed in a school building or on school
31 property; section 1 of P.L.1993, c.291 (C.2C:13-6), attempting to lure
32 or entice a child with purpose to commit a criminal offense; ²[section
33 1 of P.L.1992, c.209 (C.2C:12-10), stalking;] section 1 of P.L.1992,
34 c.209 (C.2C:12-10), stalking²; or N.J.S.2C:13-1, kidnapping, where
35 the victim of the offense is a child under the age of 18, the
36 investigation shall include a report on the defendant's mental condition
37 [unless the court directs otherwise] ²[In any case involving a
38 conviction of stalking, the investigation shall include a report on the
39 defendant's mental condition.]²

40 The presentence report shall also include a report on any
41 compensation paid by the Victims of Crime Compensation Board as a
42 result of the commission of the offense and, in any case where the
43 victim chooses to provide one, a statement by the victim of the offense
44 for which the defendant is being sentenced. The statement may

1 include the nature and extent of any physical harm or psychological or
2 emotional harm or trauma suffered by the victim, the extent of any loss
3 to include loss of earnings or ability to work suffered by the victim and
4 the effect of the crime upon the victim's family. The probation
5 department shall notify the victim or nearest relative of a homicide
6 victim of his right to make a statement for inclusion in the presentence
7 report if the victim or relative so desires. Any such statement shall be
8 made within 20 days of notification by the probation department.

9 The presentence report shall specifically include an assessment of
10 the gravity and seriousness of harm inflicted on the victim, including
11 whether or not the defendant knew or reasonably should have known
12 that the victim of the offense was particularly vulnerable or incapable
13 of resistance due to advanced age, disability, ill-health, or extreme
14 youth, or was for any other reason substantially incapable of exercising
15 normal physical or mental power of resistance.

16 c. If, after the presentence investigation, the court desires
17 additional information concerning an offender convicted of an offense
18 before imposing sentence, it may order **[that he be examined as to his**
19 **medical or mental condition, except that he may not be committed to**
20 **an institution for such examination]** any additional
21 ²**[psychiatric]psychological² or medical testing of the defendant.**

22 d. Disclosure of any presentence investigation report or
23 psychiatric examination report shall be in accordance with law and the
24 Rules of Court, except that information concerning the defendant's
25 financial resources shall be made available upon request to the Victims
26 of Crime Compensation Board or to any officer authorized under the
27 provisions of section 3 of P.L.1979, c.396 (C.2C:46-4) to collect
28 payment on an assessment, restitution or fine and that information
29 concerning the defendant's coverage under any health insurance
30 contract, policy or plan shall be made available, as appropriate to the
31 Commissioner of the Department of Corrections and to the chief
32 administrative officer of a county jail in accordance with the provisions
33 of P.L.1995, c.254 (C.30:7E-1 et al.).

34 e. The court shall not impose a sentence of imprisonment for an
35 extended term unless the ground therefor has been established at a
36 hearing after the conviction of the defendant and on written notice to
37 him of the ground proposed. The defendant shall have the right to
38 hear and controvert the evidence against him and to offer evidence
39 upon the issue.

40 f. (Deleted by amendment, P.L.1986, c.85).

41 (cf: P.L.1996, c.39, s.2)

42
43 ¹3. (New section) a. An inmate who is required to submit to a
44 ²[psychiatric]psychological² evaluation pursuant to the provisions of
45 Section 10 of P.L.1979, c.441 (C.30:4-123.54) shall be liable for the

1 cost of such evaluation. If the inmate is an enrollee or a covered
2 person under a health insurance contract, policy or plan, the State shall
3 file a claim with the health insurance contract, policy or plan for a
4 reimbursement of the costs of the ²~~psychiatric~~ psychological ²
5 evaluation. The claim shall be filed in accordance with the rules and
6 regulations promulgated pursuant to subsection b. of this section. The
7 reimbursement authorized under this section shall be payable to the
8 State Treasurer and shall be used exclusively for the purpose of
9 defraying the costs incurred by the State for the
10 ²~~psychiatric~~psychological² evaluation.

11 b. The Commissioner of the Department of ²Banking and²
12 Insurance, in accordance with the provisions of the "Administrative
13 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall
14 promulgate rules and regulations to effectuate the purposes of this
15 section.

16 c. In the event that an inmate is not covered under a health
17 insurance contract, policy or plan, or if the inmate's insurance
18 contract, policy or plan does not fully cover the costs of the
19 ²~~psychiatric~~psychological² evaluation, the State may file a lien for
20 any unpaid amounts due and payable on any and all property and
21 income to which the inmate shall have or may acquire an interest.¹
22 ²Any lien filed shall be in accordance with the rules and regulations
23 promulgated pursuant to subsection b. of this section.²

24
25 ¹ 4. (New section) a. A defendant who is required to submit to
26 a ²~~psychiatric~~ psychological² evaluation pursuant to the provisions
27 of N.J.S.2C:44-6 shall be liable for the cost of such evaluation. If the
28 defendant is an enrollee or a covered person under a health insurance
29 contract, policy or plan, the Administrative Office of the Courts shall
30 file a claim with the health insurance contract, policy or plan for a
31 reimbursement of the costs of the ²~~psychiatric~~psychological²
32 evaluation. The claim shall be filed in accordance with the rules and
33 regulations promulgated pursuant to subsection b. of this section. The
34 reimbursement authorized under this section shall be payable to the
35 Administrative Office of the Courts and shall be used exclusively for
36 the purpose of defraying the costs incurred for the
37 ²~~psychiatric~~psychological² evaluation.

38 b. The Commissioner of the Department of ²Banking and²
39 Insurance, in accordance with the provisions of the "Administrative
40 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall
41 promulgate rules and regulations to effectuate the purposes of this
42 section.

43 c. In the event that a defendant is not covered under a health
44 insurance contract, policy or plan, or if the defendant's insurance
45 contract, policy or plan does not fully cover the costs of the

1 ²~~psychiatric~~psychological² evaluation, a lien may be filed for any
2 unpaid amounts due and payable on any and all property and income
3 to which the ²~~inmate~~ defendant² shall have or may acquire an
4 interest.¹ ²Any lien filed shall be in accordance with the rules and
5 regulations promulgated pursuant to subsection b. of this section.²

6

7 ¹~~[3.] 5.~~¹ This act shall take effect immediately.

8

9

10

11

12 Requires preparole and presentence reports to include disposition of
13 prior charges suspended due to mental incompetency; requires
14 defendants and inmates to undergo psychological examinations under
15 certain circumstances; permits the State to obtain reimbursement from
16 defendants, inmates and health insurers.

ASSEMBLY, No. 489

STATE OF NEW JERSEY

INTRODUCED MAY 6, 1996

By Assemblymen WEINGARTEN, O'TOOLE, Assemblywoman J. Smith, Assemblymen Roma, DiGaetano, Azzolina, DeSopo, Asselta, Blee, T. Smith, Corodemus, Lance, Geist, Zecker, Assemblywomen Crecco, Heck, Assemblymen Malone, Cottrell, Gibson, Assemblywoman Allen, Assemblymen LeFevre and Kelly

1 AN ACT concerning parole and presentence reports and amending
2 P.L.1979, c.441 and N.J.S.2C:44-6.

3

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

6

7 1. Section 10 of P.L.1979, c.441 (C.30:4-123.54) is amended to
8 read as follows:

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

14 b. (1) The report filed pursuant to subsection a. shall contain
15 preincarceration records of the inmate, including any history of civil
16 commitment or other disposition which arose out of any charges
17 suspended pursuant to N.J.S.2C:4-6 including records of the
18 disposition of those charges and any acquittals by reason of insanity
19 pursuant to N.J.S.2C:4-1, state the conduct of the inmate during the
20 current period of confinement, include a complete report on the
21 inmate's social[,] and physical [and mental] condition, include a
22 complete psychiatric evaluation of the inmate, include an investigation
23 by the Bureau of Parole of the inmate's parole plans, and present
24 information bearing upon the likelihood that the inmate will commit a
25 crime under the laws of this State if released on parole.

26 (2) At the time of sentencing, the prosecutor shall notify any victim
27 injured as a result of a crime of the first or second degree or the
28 nearest relative of a murder victim of the opportunity to present a
29 statement for the parole report to be considered at the parole hearing

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.

1 or to testify to the parole board concerning his harm at the time of the
2 parole hearing. Each victim or relative shall be responsible for
3 notifying the board of his intention to submit such a statement and to
4 provide an appropriate mailing address.

5 The report may include a statement concerning the continuing
6 nature and extent of any physical harm or psychological or emotional
7 harm or trauma suffered by the victim, the extent of any loss of
8 earnings or ability to work suffered by the victim and the continuing
9 effect of the crime upon the victim's family. At the time public notice
10 is given that an inmate is being considered for parole pursuant to this
11 section, the board shall also notify any victim or nearest relative who
12 has previously contacted the board of the availability to provide a
13 statement for inclusion in the parole report or to present testimony at
14 the parole hearing.

15 The board shall notify such person at his last known mailing
16 address.

17 c. A copy of the report filed pursuant to subsection a. of this
18 section, excepting those documents which have been classified as
19 confidential pursuant to rules and regulations of the board or the
20 Department of Corrections, shall be served on the inmate at the time
21 it is filed with the board panel. The inmate may file with the board
22 panel a written statement regarding the report, but shall do so within
23 105 days prior to the primary parole eligibility date.

24 d. Upon receipt of the public notice pursuant to section 1 of
25 P.L.1979, c.441 (C.30:4-123.45), a county prosecutor may request
26 from the parole board a copy of the report on any adult inmate
27 prepared pursuant to subsection a. of this section, which shall be
28 expeditiously forwarded to the county prosecutor by the parole board
29 by mail, courier, or other means of delivery. Upon receipt of the
30 report, the prosecutor has 10 working days to review the report and
31 notify the parole board of the prosecutor's comments, if any, or notify
32 the parole board of the prosecutor's intent to provide comments. If
33 the county prosecutor does not provide comments or notify the parole
34 board of the prosecutor's intent to provide comments within the 10
35 working days, the parole board may presume that the prosecutor does
36 not wish to provide comments and may proceed with the parole
37 consideration. Any comments provided by a county prosecutor shall
38 be delivered to the parole board by the same method by which the
39 county prosecutor received the report. The confidentiality of the
40 contents in a report which are classified as confidential shall be
41 maintained and shall not be disclosed to any person who is not
42 authorized to receive or review a copy of the report containing the
43 confidential information.

44 e. Any provision of this section to the contrary notwithstanding,
45 the board shall by rule or regulation modify the scope of the required
46 reports and time periods for rendering such reports with reference to

1 county penal institutions.
2 (cf: P.L.1985, c.44, s.2)

3

4 2. N.J.S.2C:44-6 is amended to read as follows:

5 2C:44-6. Procedure on Sentence; Presentence Investigation and
6 Report.

7 a. The court shall not impose sentence without first ordering a
8 presentence investigation of the defendant and according due
9 consideration to a written report of such investigation when required
10 by the Rules of Court. The court may order a presentence
11 investigation in any other case.

12 b. The presentence investigation shall include an analysis of the
13 circumstances attending the commission of the offense, the defendant's
14 history of delinquency or criminality, family situation, financial
15 resources, including whether or not the defendant is an enrollee or
16 covered person under a health insurance contract, policy or plan,
17 debts, including any amount owed for a fine, assessment or restitution
18 ordered in accordance with the provisions of Title 2C, employment
19 history, personal habits, the disposition of any charge made against any
20 codefendants **[**and may include a report on his physical and mental
21 condition**]**, the defendant's history of civil commitment or other
22 disposition if any, which arose out of charges suspended pursuant to
23 N.J.S.2C:4-6 including the records of the disposition of those charges
24 and any acquittal by reason of insanity pursuant to N.J.S.2C:4-1, and
25 any other matters that the probation officer deems relevant or the
26 court directs to be included. The report shall also include a medical
27 history of the defendant and a complete psychiatric evaluation of the
28 defendant. In any case involving a conviction of N.J.S.2C:24-4,
29 endangering the welfare of a child; N.J.S.2C:18-3, criminal trespass,
30 where the trespass was committed in a school building or on school
31 property; section 1 of P.L.1993, c.291 (C.2C:13-6), attempting to lure
32 or entice a child with purpose to commit a criminal offense; section 1
33 of P.L.1992, c.209 (C.2C:12-10), stalking; or N.J.S.2C:13-1,
34 kidnapping, where the victim of the offense is a child under the age of
35 18, the investigation shall include a report on the defendant's mental
36 condition **[unless the court directs otherwise**]**.**

37 The presentence report shall also include a report on any
38 compensation paid by the Victims of Crime Compensation Board as a
39 result of the commission of the offense and, in any case where the
40 victim chooses to provide one, a statement by the victim of the offense
41 for which the defendant is being sentenced. The statement may
42 include the nature and extent of any physical harm or psychological or
43 emotional harm or trauma suffered by the victim, the extent of any loss
44 to include loss of earnings or ability to work suffered by the victim and
45 the effect of the crime upon the victim's family. The probation
46 department shall notify the victim or nearest relative of a homicide

1 victim of his right to make a statement for inclusion in the presentence
2 report if the victim or relative so desires. Any such statement shall be
3 made within 20 days of notification by the probation department.

4 The presentence report shall specifically include an assessment of
5 the gravity and seriousness of harm inflicted on the victim, including
6 whether or not the defendant knew or reasonably should have known
7 that the victim of the offense was particularly vulnerable or incapable
8 of resistance due to advanced age, disability, ill-health, or extreme
9 youth, or was for any other reason substantially incapable of exercising
10 normal physical or mental power of resistance.

11 c. If, after the presentence investigation, the court desires
12 additional information concerning an offender convicted of an offense
13 before imposing sentence, it may order **that he be examined as to his**
14 **medical or mental condition, except that he may not be committed to**
15 **an institution for such examination** any additional psychiatric or
16 medical testing of the defendant.

17 d. Disclosure of any presentence investigation report or psychiatric
18 examination report shall be in accordance with law and the Rules of
19 Court, except that information concerning the defendant's financial
20 resources shall be made available upon request to the Victims of Crime
21 Compensation Board or to any officer authorized under the provisions
22 of section 3 of P.L.1979, c.396 (C.2C:46-4) to collect payment on an
23 assessment, restitution or fine and that information concerning the
24 defendant's coverage under any health insurance contract, policy or
25 plan shall be made available, as appropriate to the Commissioner of the
26 Department of Corrections and to the chief administrative officer of a
27 county jail in accordance with the provisions of P.L.1995, c.254
28 (C.30:7E-1 et al.).

29 e. The court shall not impose a sentence of imprisonment for an
30 extended term unless the ground therefor has been established at a
31 hearing after the conviction of the defendant and on written notice to
32 him of the ground proposed. The defendant shall have the right to
33 hear and controvert the evidence against him and to offer evidence
34 upon the issue.

35 f. (Deleted by amendment, P.L.1986, c.85).
36 (cf: P.L.1995, c.254, s.7)

37
38 3. This act shall take effect immediately.
39
40

41 STATEMENT

42
43 This bill incorporates the recommendations of the New Jersey's
44 Supreme Court's "Committee to Review the Conrad Jeffrey Matter"
45 which issued a report dated October, 1995. The Committee
46 recommended that information concerning the psychological make-up

1 and behavior of the defendant is vital and should be included in the
2 criminal record of the defendant. This bill would require the preparole
3 report and the presentence report to include information concerning
4 the defendant's psychiatric background.

5 With regard to preparole reports, this bill would require that the
6 report include information concerning any history of civil
7 commitment or other disposition which arose out of charges
8 suspended pursuant to N.J.S.2C:4-6, including records of the
9 disposition of those charges and any acquittals by reason of insanity
10 pursuant to N.J.S.2C:4-1. Under N.J.S.2C:4-6, a defendant found
11 mentally incompetent to stand trial may have the charges against him
12 suspended while he is either committed to a psychiatric institution,
13 placed in an out patient setting or released. After a period of time, if
14 the defendant does not become competent to stand trial the court may
15 dismiss the charges. In addition the bill requires the preparole report
16 to include a complete psychiatric evaluation of the inmate.

17 The bill would also require that presentence reports include
18 information concerning any history of civil commitment or other
19 disposition, which arose out of charges suspended pursuant to
20 N.J.S.2C:4-6, including the records of the disposition of those
21 charges, and any acquittal by reason of insanity pursuant to
22 N.J.S.2C:4-1, including the records of the disposition of those
23 charges. The bill would also require all presentence reports to include
24 a medical history of the defendant and a complete psychiatric
25 evaluation of the defendant. In addition, the bill would authorize the
26 court, after the presentence investigation has been made, to order
27 additional psychiatric and medical testing of the defendant.

28

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31

32 Requires preparole and presentence reports to include disposition of
33 prior charges suspended due to mental incompetency; requires
34 defendants and inmates to undergo psychiatric examinations under
35 certain circumstances.

ASSEMBLY, No. 685

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Assemblyman ZISA

1 AN ACT concerning presentence reports and amending N.J.S.2C:44-6.

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

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6 1. N.J.S. 2C:44-6 is amended to read as follows:

7 2C:44-6. Procedure on Sentence; Presentence Investigation and
8 Report.

9 a. The court shall not impose sentence without first ordering a
10 presentence investigation of the defendant and according due
11 consideration to a written report of such investigation when required
12 by Rules of Court. The court may order a presentence investigation
13 in any other case.

14 b. The presentence investigation shall include an analysis of the
15 circumstances attending the commission of the offense, the defendant's
16 history of delinquency or criminality, family situation, financial
17 resources, debts, including any amount owed for a fine, assessment or
18 restitution ordered in accordance to the provisions of Title 2C,
19 employment history, personal habits**[,]** and the disposition and the
20 reasons for the disposition of any charge made against the defendant
21 or any codefendants, including but not limited to any charges
22 dismissed pursuant to N.J.S. 2C:4-6, and may include **[**a report on his
23 physical and mental condition and**]** any other matters that the
24 probation officer deems relevant or the court directs to be included.
25 The presentence report shall also include a report on the defendant's
26 physical and mental condition. The presentence report shall also
27 include a report on any compensation paid by the Violent Crimes
28 Compensation Board as a result of the commission of the offense and,
29 in any case where the victim chooses to provide one, a statement by
30 the victim of the offense for which the defendant is being sentenced.
31 The statement may include the nature and extent of any physical harm
32 or psychological or emotional harm or trauma suffered by the victim,

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.

1 the extent of any loss to include loss of earnings or ability to work
2 suffered by the victim and the effect of the crime upon the victim's
3 family. The probation department shall notify the victim or nearest
4 relative of a homicide victim of his right to make a statement for
5 inclusion in the presentence report if the victim or relative so desires.
6 Any such statement shall be made within 20 days of notification by the
7 probation department.

8 The presentence report shall specifically include an assessment of
9 the gravity and seriousness of harm inflicted on the victim, including
10 whether or not the defendant knew or reasonably should have known
11 that the victim of the offense was particularly vulnerable or incapable
12 of resistance due to advanced age, disability, ill-health, or extreme
13 youth, or was for any other reason substantially incapable of exercising
14 normal physical or mental power of resistance.

15 c. **[If, after the presentence investigation, the court desires**
16 **additional information concerning an offender convicted of an offense**
17 **before imposing sentence, it may order that he be examined as to his**
18 **medical or mental condition, except that he may not be committed to**
19 **an institution for such examination]** Deleted by amendment. P.L. .
20 c. (C.) (now pending before the Legislature as this bill).

21 d. Disclosure of any presentence investigation report or psychiatric
22 examination report shall be in accordance with law and the Rules of
23 Court, except that information concerning the defendant's financial
24 resources shall be made available upon request to the Violent Crimes
25 Compensation Board or to any officer authorized under the provisions
26 of N.J.S.2C:46-4 to collect payment on an assessment, restitution or
27 fine.

28 e. The court shall not impose a sentence of imprisonment for an
29 extended term unless the ground therefor has been established at a
30 hearing after the conviction of the defendant and on written notice to
31 him of the ground proposed. The defendant shall have the right to
32 hear and controvert the evidence against him and to offer evidence
33 upon the issue.

34 f. (Deleted by amendment, P.L.1986, c.85).
35 (cf: P.L.1991, c.329, s.7)

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37 2. This act shall take effect immediately.

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STATEMENT

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42 This bill would require the presentence report to include
43 information concerning any prior disposition of charges against the
44 defendant, including any dismissals as a result of a determination that
45 the defendant was mentally incompetent to stand trial. The bill would
46 also mandate that all presentence reports include a report on the

1 defendant's physical and mental condition.

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6 Requires presentence reports to note when charges are dismissed due
7 to mental incompetency; mandates a report on the defendant's physical
8 and mental condition.

ASSEMBLY JUDICIARY COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR **ASSEMBLY, Nos. 489 and 685**

STATE OF NEW JERSEY

DATED: MAY 20, 1996

The Assembly Judiciary Committee reports favorably Assembly Committee Substitute for Assembly Bill Nos. 489 and 685.

This substitute incorporates the recommendations of the New Jersey's Supreme Court's "Committee to Review the Conrad Jeffrey Matter" which issued a report dated October, 1995 which recommended that information concerning the psychological make-up and behavior of the defendant should be included in the criminal record of the defendant. This substitute would require the preparole report and the presentence report to include information concerning the defendant's psychiatric background.

With regard to preparole reports, this substitute would require that the report include information concerning any history of civil commitment or other disposition which arose out of charges suspended pursuant to N.J.S.2C:4-6, including records of the disposition of those charges and any acquittals by reason of insanity pursuant to N.J.S.2C:4-1. Under N.J.S.2C:4-6, a defendant found mentally incompetent to stand trial may have the charges against him suspended while he is either committed to a psychiatric institution, placed in an out patient setting or released. After a period of time, if the defendant does not become competent to stand trial the court may dismiss the charges. In addition the substitute requires the preparole report to include a complete psychiatric evaluation of the inmate.

The substitute would also require that presentence reports include information concerning any history of civil commitment or other disposition, which arose out of charges suspended pursuant to N.J.S.2C:4-6, including the records of the disposition of those charges, and any acquittal by reason of insanity pursuant to N.J.S.2C:4-1, including the records of the disposition of those charges. The substitute would also require all presentence reports to include a medical history of the defendant and a complete psychiatric evaluation of the defendant. In addition, the substitute would authorize the court, after the presentence investigation has been made, to order additional psychiatric and medical testing of the defendant.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 489 and 685

with Assembly committee amendments

STATE OF NEW JERSEY

DATED: JUNE 20, 1996

The Assembly Appropriations Committee reports favorably Assembly Bill No.489/685 (Acs) with committee amendments.

Assembly Bill No. 489/685 (Acs) incorporates the recommendations of the New Jersey's Supreme Court's "Committee to Review the Conrad Jeffrey Matter" which issued a report dated October, 1995 which recommended that information concerning the psychological make-up and behavior of the defendant should be included in the criminal record of the defendant. This legislation requires the preparole report and the presentence report to include information concerning the defendant's psychiatric background.

With regard to parole reports, legislation would requires that the report include information concerning any history of civil commitment or other disposition which arose out of charges suspended pursuant to N.J.S.2C:4-6, including records of the disposition of those charges and any acquittals by reason of insanity pursuant to N.J.S.2C:4-1. Under N.J.S.2C:4-6, a defendant found mentally incompetent to stand trial may have the charges against him suspended while he is either committed to a psychiatric institution, placed in an out patient setting or released. After a period of time, if the defendant does not become competent to stand trial the court may dismiss the charges. In addition, the legislation requires the parole report to include a complete psychiatric evaluation of the inmate.

The legislation also requires that presentence reports include information concerning any history of civil commitment or other disposition, which arose out of charges suspended pursuant to N.J.S.2C:4-6, including the records of the disposition of those charges, and any acquittal by reason of insanity pursuant to N.J.S.2C:4-1, including the records of the disposition of those charges. The legislation requires all presentence reports to include a medical history of the defendant and a complete psychiatric evaluation of the defendant. In addition, the legislation authorizes the court, after the presentence investigation has been made, to order additional psychiatric and medical testing of the defendant.

FISCAL IMPACT:

This bill was not certified as requiring a fiscal note.

COMMITTEE AMENDMENTS:

The committee amendments require the preparole and presentence reports to include any history of civil commitment regardless of whether the civil commitment arose as a result of a person having their charges suspended pursuant to N.J.S.2C:4-6 or as a result of an acquittal by reason of insanity pursuant to N.J.S.2C:4-1. The amendments would also require the defendant or inmate to disclose any information concerning any history of civil commitment.

In addition, the amendments limit the instances when a psychiatric evaluation would be required to only in any case in which the inmate has been convicted of first or second degree crime involving violence or the defendant is being sentenced for a first or second degree crime involving violence. and: (1) the inmate or defendant has a prior acquittal by reason of insanity pursuant to N.J.S.2C:4-1 or had charges suspended pursuant to N.J.S.2C:4-6; or (2) the inmate or defendant has a prior conviction for murder pursuant to N.J.S.2C:11-3, aggravated sexual assault or sexual assault pursuant to N.J.S.2C:14-2, kidnapping pursuant to N.J.S.2C:13-1, endangering the welfare of a child which would constitute a crime of the second degree pursuant to N.J.S.2C:24-4, and stalking which would constitute a crime of the third degree pursuant to N.J.S.2C:24-4; or (3) the inmate or defendant has a prior diagnosis of psychosis.

With regard to presentence reports, the amendments provides that the court, in its discretion and considering all the appropriate circumstances, may waive the medical history and psychiatric examination in any case in which a term of imprisonment which includes a period of parole ineligibility.

In addition, the committee amended the bill by adding two new sections to the bill:3 and 4. These sections would require the inmate or the defendant who submits to the psychiatric evaluation to be liable for the costs of the evaluation. If the inmate or the defendant is an enrollee in an health insurance contract, policy or plan, then the agency would be contacted for reimbursement. If the inmate or the defendant is not covered under a health insurance contract, policy or plan or if the contract, policy or plan does not fully cover the costs of the evaluation, a lien may be filed for any unpaid amounts.

SENATE JUDICIARY COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, Nos. 489 and 685

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 5, 1997

The Senate Judiciary Committee reports favorably and with committee amendments Assembly Bill Nos. 489 and 685 (1R).

ACS for A-489/685 (1R) incorporates recommendations contained in the Supreme Court's "Committee to Review the Conrad Jeffrey Matter" with regard to the inclusion of information concerning the defendant's psychiatric history and psychological make-up in parole and presentence reports.

With regard to presentence reports, ACS for A-489/685 (1R) requires the inclusion of information concerning any prior civil commitments, any acquittals by reason of insanity and any instances when charges were suspended on the grounds that the defendant lacked fitness to proceed. ACS for A-489/685 (1R) would also require a presentence report to include a complete psychological evaluation of the defendant if the defendant is being sentenced for a crime of the first or second degree involving violence and either (1) the defendant was previously acquitted by reason of insanity or had charges suspended for lack of fitness to proceed; (2) the defendant was previously convicted of murder; aggravated sexual assault; sexual assault; kidnaping; endangering the welfare of a child if the offense constituted a crime of the second degree or stalking if the offense constituted a crime of the third degree or (3) the defendant was previously diagnosed as psychotic.

With regard to parole reports, ACS for A-489/685 (1R) requires the inclusion of information about prior civil commitments; acquittals by reason of insanity and suspension of charges for lack of fitness to proceed. ACS for A-489/685 (1R) would require parole reports to include a complete psychological evaluation of the inmate.

In addition ACS for A-489/685 (1R) would provide that an inmate or defendant required to undergo a psychological evaluation be liable for the costs of the evaluation. If the inmate or defendant is enrolled

in a health insurance plan, reimbursement would be sought from the insurance company. If the inmate or defendant is uninsured or if the insurance plan does not fully cover the costs of the evaluation, a lien may be filed for any unpaid costs.

As passed by the Assembly, the bill would have required defendants and inmates to undergo psychiatric evaluations. Under the amendments adopted by the committee, defendants and inmates would undergo psychological evaluations. The amendments also corrected several drafting errors.

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G.61



OFFICE OF THE GOVERNOR NEWS RELEASE

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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.

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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. Cisela (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).