

30:4-123.55

LEGISLATIVE HISTORY CHECKLIST
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(Parole hearings--
personal testimony)

NJSA: 30:4-123.55

LAWS OF: 1992 CHAPTER: 59

BILL NO: S121

SPONSOR(S) Gormley

DATE INTRODUCED: Pre-filed

COMMITTEE: ASSEMBLY: Judiciary

SENATE: Judiciary

AMENDED DURING PASSAGE: Yes Amendments during passage
denoted by asterisks

DATE OF PASSAGE: ASSEMBLY: June 11, 1992

SENATE: March 23, 1992

DATE OF APPROVAL: July 23, 1992

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: No

HEARINGS: No

Similar legislation proposed in:

974.90 New Jersey. Office of Victim-Witness Advocacy.

C929 Attorney General standards to ensue the rights of crime

1988 victims. Trenton, 1989.

KEG:pp

[FIRST REPRINT]

SENATE, No. 121

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1992 SESSION

By Senator GORMLEY

1 AN ACT concerning crime victims' testimony at parole hearings
2 and amending P.L.1979, c.441.

3

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

6 1. Section 11 of P.L.1979, c.441 (C.30:4-123.55) is amended to
7 read as follows:

8 11. a. Prior to the parole eligibility date of each adult inmate,
9 a designated hearing officer shall review the reports required by
10 section 10 of this act, and shall determine whether there is a
11 basis for denial of parole in the preparole report or the inmate's
12 statement, or an indication, reduced to writing, that additional
13 information providing a basis for denial of parole would be
14 developed or produced at a hearing. If the hearing officer
15 determines that there is no basis in the preparole report or the
16 inmate's statement for denial of parole and that there is no
17 additional relevant information to be developed or produced at a
18 hearing, he shall at least 60 days prior to the inmate's parole
19 eligibility date recommend in writing to the assigned member of
20 the board panel that parole release be granted.

21 b. If the assigned member of the board panel or in the case of
22 an inmate sentenced to a county penal institution, the assigned
23 member concurs in the hearing officer's recommendation, he
24 shall certify parole release pursuant to section 15 of this act as
25 soon as practicable after the eligibility date and so notify the
26 inmate and the board. In the case of an inmate sentenced to a
27 county penal institution the board shall certify parole release or
28 deny parole as provided by this section, except with regard to
29 time periods for notice and parole processing which are
30 authorized by or otherwise adopted pursuant to subsection g. of
31 section 7 of P.L.1979, c.441 (C.30:4-123.51g.). If the designated
32 hearing officer does not recommend release on parole or if the
33 assigned member does not concur in a recommendation of the
34 designated hearing officer in favor of release, then the parole
35 release of an inmate in a county penal institution shall be treated
36 under the provisions of law otherwise applicable to an adult
37 inmate. In the case of an inmate sentenced to a county penal
38 institution, the performance of public service for the remainder
39 of the term of the sentence shall be a required condition of
40 parole, where appropriate.

41 c. If the hearing officer or the assigned member determines
42 that there is a basis for denial of parole, or that a hearing is

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate SJU committee amendments adopted February 10, 1992.

1 otherwise necessary, the hearing officer or assigned member shall
2 notify the appropriate board panel and the inmate in writing of
3 his determination, and of a date for a parole consideration
4 hearing. The board panel shall notify the victim of the crime, if
5 the crime for which the inmate is incarcerated was a crime of
6 the first or second degree, or the victim's nearest relative if the
7 crime was murder, as appropriate, who was previously contacted
8 by the board and who has indicated his intention to the board to
9 testify at the hearing, of the opportunity to testify or submit
10 written statements at the hearing. Said hearing shall be
11 conducted by the appropriate board panel at least 30 days prior to
12 the eligibility date. At the hearing, which shall be informal, the
13 board panel shall receive as evidence any relevant and reliable
14 documents or in person testimony, including that of the victim of
15 the crime or the members of the family of a murder victim if the
16 victim or a family member so desires. [A senior hearing officer
17 of the parole board, on behalf and under the direction of the
18 board panel, may receive the testimony. The senior hearing
19 officer shall prepare a report or a transcript of the testimony for
20 presentation to the board panel at the hearing.] ¹If a victim of a
21 crime or the relative of a murder victim chooses not to testify
22 personally at the hearing, the victim or relative may elect to
23 present testimony to a senior hearing officer designated by the
24 board panel. The senior hearing officer shall prepare a report or
25 a transcript of the testimony for presentation to the board panel
26 at the hearing.¹ All such evidence not classified as confidential
27 pursuant to rules and regulations of the board or the Department
28 of Corrections shall be disclosed to the inmate and the inmate
29 shall be permitted to rebut such evidence and to present evidence
30 on his own behalf. The decision of the board panel shall be based
31 solely on the evidence presented at the hearing.

32 d. At the conclusion of the parole consideration hearing, the
33 board panel shall either (1) certify the parole release of the
34 inmate pursuant to section 15 of this act as soon as practicable
35 after the eligibility date and so notify the inmate and the board,
36 or (2) deny parole and file with the board within 30 days of the
37 hearing a statement setting forth the decision, the particular
38 reasons therefor, except information classified as confidential
39 pursuant to rules and regulations of the board or the Department
40 of Corrections, a copy of which statement shall be served upon
41 the inmate together with notice of his right to appeal to the
42 board.

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

46 f. Notwithstanding the provision of any other law to the
47 contrary, if an inmate incarcerated for murder is recommended
48 for parole by the assigned board member or the appropriate board
49 panel, parole shall not be certified until a majority of the full
50 parole board, after conducting a hearing, concurs in that
51 recommendation.

52 The provisions of this subsection shall not apply to an inmate
53 who has his parole revoked and is returned to custody pursuant to
54 the provisions of section 19 of P.L.1979, c.441 (C.30:4-123.63).
55 (cf: P.L.1989, c.115, s.1.)

1 2. This act shall take effect immediately.

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7 Permits crime victims to appear personally at parole hearings in
 certain cases.

STATEMENT

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Under the present law governing the operations of the Parole Board, victims of first and second degree crimes are permitted to submit statements or present testify concerning pending paroles. If the victim chooses to testify, a senior hearing officer is authorized to receive the testimony. The testimony is taped and a transcript is made from the tape which is then made available to the parole board panel reviewing the case.

This bill would clarify that victims have the right to testify in person before the parole board panel considering the case. The bill would also delete the language authorizing hearing officers to receive victims' testimony.



Permits crime victims to appear personally at parole hearings in certain cases.

ASSEMBLY JUDICIARY, LAW AND PUBLIC SAFETY
COMMITTEE

STATEMENT TO

[FIRST REPRINT]

SENATE, No. 121

STATE OF NEW JERSEY

DATED: JUNE 1, 1992

The Assembly Judiciary, Law and Public Safety Committee reports favorably Senate Bill No. 121 (1R).

Under the present law governing the operations of the Parole Board, victims of first and second degree crimes, or the victim's nearest relative if the crime was murder, are permitted to submit statements or present testimony concerning parole considerations at the parole hearing. If the victim chooses to testify, a senior hearing officer is authorized to receive the testimony. The testimony is taped and a transcript is made from the tape or a report is prepared which is then made available to the parole board panel reviewing the case. The bill would provide that victims of crimes of the first or second degree, or the victim's nearest relative if the crime was murder, have the right to testify in person before the parole board panel considering the case. If the crime victim chooses not to testify personally, testimony may be given before a senior hearing officer designated by the panel in lieu of an actual appearance before the parole board panel considering the case.

This bill is identical to Assembly Bill No. 1269.

SENATE JUDICIARY COMMITTEE

STATEMENT TO

SENATE, No. 121

with Senate committee amendments

STATE OF NEW JERSEY

DATED: FEBRUARY 10, 1992

The Senate Judiciary Committee reports favorably and with committee amendments Senate Bill No. 121.

Under the present law governing the operations of the Parole Board, victims of first and second degree crimes are permitted to submit statements or present testimony concerning pending paroles. If the victim chooses to testify, a senior hearing officer is authorized to receive the testimony. The testimony is taped and a transcript is made from the tape which is then made available to the parole board panel reviewing the case. The bill would provide that victims of crimes of the first or second degree have the right to testify in person before the parole board panel considering the case.

As originally drafted, the bill would have deleted language authorizing hearing officers to receive victims' testimony. By committee amendment, language was added to the bill clarifying that if the crime victim chooses, testimony could be given before a hearing officer in lieu of an actual appearance before the parole board panel considering the case.

This bill was prefiled for introduction in the 1992 session pending technical review. As reported, the bill includes the changes required by technical review which has been performed.



OFFICE OF THE GOVERNOR NEWS RELEASE

**CN-001
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TRENTON, N.J. 08625

Release:

Thursday
July 23, 1992

GOVERNOR FLORIO SIGNS BILL BOOSTING CRIME VICTIMS' RIGHTS

In his continuing effort to help tilt the criminal justice system back on the side of crime victims, Governor Jim Florio today signed legislation allowing crime victims or their relatives to testify before parole hearings.

"The least government can do for a victim of crime is listen. This bill will help give our criminal justice system a human face by allowing crime victims and the relatives of victims to attend and speak when their assailant goes before the parole board," said Governor Florio. "A criminal justice system that protects the rights of victims as well as convicts should not fear the real voices and faces of those who suffer from criminal acts. This legislation, together with the Violent Crimes Compensation bill I signed in December is designed to balance the scales of justice that too often is tilt against the victim."

Under the new law, victims of first or second-degree crimes, or the victim's nearest relative in the case of murder, have the right to testify in person before the Parole Board panel considering the case. Previously, a victim or relative was only permitted to testify on a tape recorder and a written transcript was then submitted to the Parole Board.

During the bill signing, Governor Florio credited Patricia Miller, of Mays Landing, for her efforts to gain passage of the law. Mrs. Miller's 17-year-old son, Lee, had been murdered in 1980. One of the men involved, who was then 17, was sentenced to life in prison, but may be eligible for parole in a few years. Under the new law, Mrs. Miller will have the opportunity to appear before the Parole Board

"Crime is more than statistics. It is more than what we see on television and the movies. It is trauma that changes people's lives and has changed the way we see ourselves. We can't truly judge how best to keep our streets and neighborhoods safe if we forget the real costs of crime, in real terms, told in the real voices of victims,"

said Governor Florio. "The Constitution guarantees the rights of all citizens. Let us not forget that the victims of crime and their families are citizens also."

The bill, S 121Sca/A 1269, was sponsored by Senator William Gormley, and Assemblymen Fred Nickles and John Gaffney.

Last December, Governor Florio signed legislation mandating courts to require most criminals to pay restitution to the victims of their crimes. The law also increased the minimum assessment those convicted of crimes must pay to the Violent Crimes Compensation Board and imposes tough new rules to aid in the collection of restitution and assessment payments.

Last summer, the Governor helped lead the fight to get a proposed crime victims' rights constitutional amendment on the November 1991 ballot. The amendment states that crime victims and their families should be treated with fairness and compassion, and should have an opportunity to attend judicial proceedings. The amendment was overwhelmingly approved by voters.

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