

30:4-123.54, 30:4-123.55

LEGISLATIVE HISTORY CHECKLIST

NJSA: 30:4-123.54, 30:4-123.55

(Parole hearings and pre-parole reports — allow statements by crime victims or their families)

LAWS OF: 1983

CHAPTER: 453

Bill No: S1095

Sponsor(s): Russo

Date Introduced: March 1, 1982

Committee:

Assembly: Judiciary, Law, Public Safety and Defense

Senate: Judiciary

Amended during passage: YES
According to Governor's recommendations

Substituted for A948 (not attached since identical to S1095) Amendments denoted by asterisks.

Date of Passage:

Assembly: September 6, 1983 Re-enacted 12-15-83

Senate: May 10, 1982 Re-enacted 1-9-84

Date of Approval: January 12, 1984

Following statements are attached if available:

Sponsor statement: YES

Committee statement: **Assembly** YES

Senate YES

Fiscal Note: NO

Veto Message: YES

Message on Signing: NO

Following were printed:

Reports: NO

Hearings: NO

cbc

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SENATE, No. 1095

STATE OF NEW JERSEY

INTRODUCED MARCH 1, 1982

By Senator RUSSO

Referred to Committee on Judiciary

AN ACT concerning parole ****[and]**** ****,**** amending P. L. 1979,
c. 441 ****and making an appropriation****.

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

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

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

8 b. (1) The report filed pursuant to subsection a. shall contain
9 preincarceration records of the inmate, state the conduct of the
10 inmate during the current period of confinement, include a complete
11 report on the inmate's social, physical and mental condition, in-
12 clude an investigation by the Bureau of Parole of the inmate's
13 parole plans, and present information bearing upon the likelihood
14 that the inmate will commit a crime under the laws of this State
15 if released on parole.

16 (2) ****[The report shall also contain present information bearing**
17 **upon restitution, if appropriate, including a current statement by**
18 **the victim of the crime or members of the family of a murder**
19 **victim. The statement may include the continuing nature and**
20 **extent of any physical harm or psychological or emotional harm or**
21 **trauma suffered by the victim, the extent of any loss of earnings**

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 printed in italics *thus* is new matter.

Matter enclosed in asterisks or stars has been adopted as follows:

*—Senate committee amendments adopted March 29, 1982.

**—Assembly committee amendments adopted October 18, 1982

***—Senate amendment adopted in accordance with Governor's recommenda-
tions December 8, 1983.

22 or ability to work suffered by the victim and the continuing effect
 23 of the crime upon the victim's family. *~~[[The superintendent or other~~
 24 ~~chief executive officer of the institution shall notify the victim or~~
 25 ~~his family]]~~* *The prosecuting attorney upon receiving public
 26 notice that an inmate is being considered for parole pursuant to the
 27 provisions of section 1 of this act shall notify the victim of the crime
 27A for which the inmate is incarcerated, if the crime was of the first
 27B or second degree, or the victim's nearest relative if the crime was
 27C murder*, as appropriate, of the right to make a statement for
 27D inclusion in the report filed pursuant to subsection a. if the victim
 27E or a family member so desires.]**

28 **At the time of sentencing, the prosecutor shall notify any
 29 victim injured as a result of a crime of the first or second degree
 30 or the nearest relative of a murder victim of the opportunity to
 31 present a statement for the parole report to be considered at the
 32 parole hearing or to testify to the parole board concerning his
 33 harm at the time of the parole hearing. Each victim or relative
 34 shall be responsible for notifying the board of his intention to sub-
 35 mit such a statement and to provide an appropriate mailing ad-
 36 dress.

37 The report may include a statement concerning the continuing
 38 nature and extent of any physical harm or psychological or emo-
 39 tional harm or trauma suffered by the victim, the extent of any
 40 loss of earnings or ability to work suffered by the victim and the
 41 continuing effect of the crime upon the victim's family. At the time
 42 public notice is given that an inmate is being considered for parole
 43 pursuant to this section, the board shall also notify any victim or
 44 nearest relative who has previously contacted the board of the
 45 availability to provide a statement for inclusion in the parole re-
 46 port or to present testimony at the parole hearing.

47 The board shall notify such person at his last known mailing
 48 address.**

49 c. A copy of the report filed pursuant to subsection b. of this
 50 section, excepting those documents which have been classified as
 51 confidential pursuant to rules and regulations of the board or the
 52 Department of Corrections, shall be served on the inmate at the
 53 time it is filed with the board panel. The inmate may file with the
 54 board panel a written statement regarding the report, but shall do
 55 so within 105 days prior to the primary parole eligibility date.

56 **d. Any provision of this section to the contrary notwithstand-
 57 ing, the board shall, by rule and regulation, modify the scope of
 58 the required reports and time periods for rendering such reports
 59 with reference to county penal institutions.**

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

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

16 b. If the assigned member of the board panel ***or in the case of*
16A *an inmate sentenced to a county penal institution, the assigned*
16B *member*** concurs in the hearing officer's recommendation, he shall
16C certify parole release pursuant to section 15 of this act as soon as
17 practicable after the eligibility date and so notify the inmate and
17A the board. ***In the case of an inmate sentenced to a county penal*
17B *institution the board shall certify parole release or deny parole*
18 *as provided by this section, except with regard to time periods for*
18A *notice and parole processing which are authorized by or otherwise*
18B *adopted pursuant to subsection g. of section 7 of P. L. 1979, c. 441*
18C *(C. 30:4-123.51g.). If the designated hearing officer does not rec-*
18D *ommend release on parole or if the assigned member does not con-*
18E *cur in a recommendation of the designated hearing officer in favor*
19 *of release, then the parole release of an inmate in a county penal*
19A *institution shall be treated under the provisions of law otherwise*
19B *applicable to an adult inmate. In the case of an inmate sentenced*
19C *to a county penal institution, the performance of public service for*
19D *the remainder of the term of the sentence shall be a required con-*
19E *dition of parole, where appropriate.***

20 c. If the hearing officer or the assigned member determines that
21 there is a basis for denial of parole, or that a hearing is otherwise
22 necessary, the hearing officer or assigned member shall notify the
23 appropriate board panel and the inmate in writing of his determi-
24 nation, and of a date for a parole consideration hearing. *The board*
25 *panel shall notify the victim of the crime * [or the family of a*
26 *murder victim] * *, if the crime for which the inmate is incarcerated*
27 *was a crime of the first or second degree, or the victim's nearest*
28 *relative if the crime was murder*, as appropriate, ** who was pre-*

28A viously contacted by the board and who has indicated his intention
 29 to the board to testify at the hearing,** of the ****[right]**** ****op-**
 30 **portunity**** to testify or submit written statements at the hearing.
 31 Said hearing shall be conducted by the appropriate board panel at
 32 least 30 days prior to the eligibility date. At the hearing, which
 33 shall be informal, the board panel shall receive as evidence any
 34 relevant and reliable documents or ****[testimony]**** ****testi-**
 35 **mony****, including that of the victim of the crime or the members
 36 of the family of a murder victim if the victim or a family member
 37 so desires. *****A senior hearing officer of the parole board, on behalf**
 38 **and under the direction of the board panel, may receive the testi-**
 38A **mony. The senior hearing officer shall prepare a report or a tran-**
 38B **script of the testimony for presentation to the board panel at the**
 38C **hearing.***** All such evidence not classified as confidential pur-
 38D suant to rules and regulations of the board or the Department of
 38E Corrections shall be disclosed to the inmate and the inmate shall be
 38G permitted to rebut such evidence and to present evidence on his own
 38H behalf. The decision of the board panel shall be based solely on
 38I the evidence presented at the hearing.

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

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

1 ****3. There is appropriated \$254,000.00 to the State Parole Board**
 2 **to effectuate the purposes of this act.****

1 ****[3.]**** ****4.**** This act shall take effect ****[immediately]****
 2 ****180 days after enactment****.

32 *family of a murder victim if the victim or a family member so*
 33 *desires.* All such evidence not classified as confidential pursuant to
 34 rules and regulations of the board or the Department of Corrections
 35 shall be disclosed to the inmate and the inmate shall be permitted to
 36 rebut such evidence and to present evidence on his own behalf.
 37 The decision of the board panel shall be based solely on the evidence
 38 presented at the hearing.

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

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

1 3. This act shall take effect immediately.

STATEMENT

This bill amends the provisions of the "Parole Act of 1979" to provide for a victim of a crime or members of the family of a murder victim to make a statement for inclusion in the preparole report of the inmate who committed the crime or to submit a statement or give testimony at a parole hearing if the victim or a family member so desires.

The bill requires the parole board panel to give notice to the victim or his family of the right to submit a statement or testify at the parole hearing and requires the superintendent of the institution to give notice to the victim or his family of the right to submit a statement for inclusion in the preparole report.

This will permit the parole board to better evaluate the need for restitution as a special condition of parole under P. L. 1979, c. 441, s. 15 (C. 30:4-123.59).

51095 (1983)

ASSEMBLY JUDICIARY, LAW, PUBLIC SAFETY AND
DEFENSE COMMITTEE

STATEMENT TO

SENATE, No. 1095

with Assembly committee amendments

STATE OF NEW JERSEY

DATED: OCTOBER 7, 1982

This bill amends the "Parole Act of 1979" and would provide that any victim of a first or second degree crime or the nearest relative of a murder victim be afforded the opportunity to make a statement for inclusion in the preparole report of the inmate who committed the crime. The additional opportunity to submit a statement or to testify at that inmate's parole hearing would also be provided under this bill.

Amendments to the bill which were suggested by the State Parole Board and adopted by the committee would require that the prosecutor, at the time of sentencing, notify the victim or nearest relative of a murder victim of their opportunity to submit a statement for the preparole report or the parole hearing and of the opportunity to testify at the parole hearing. It would then be the victim's or relative's responsibility to notify the Parole Board of their interest to either submit a statement or testify and to provide the Parole Board with an appropriate mailing address. When public notice would be given that an inmate is being considered for parole, the Parole Board would be required to notify those victims or relatives who had expressed their interest to the Parole Board and who had also sent an appropriate address at which to be contacted.

These amendments were adopted by the committee for this bill and for Assembly Bill No. 948. Technical amendments to make the bills identical and to conform them with P. L. 1982, c. 71 were also adopted.

SENATE JUDICIARY COMMITTEE

STATEMENT TO

SENATE, No. 1095

with Senate committee amendment

STATE OF NEW JERSEY

DATED: MARCH 25, 1982

This bill would require that the preparole report prepared on each inmate prior to review by the Parole Board contain any present information relative to restitution and a current statement by the victim of the crime or members of the family of a murder victim. The statement by the victim or his family may include the continuing nature or extent of any physical, psychological or emotional harm or trauma; the extent of any lost earnings and the continuing effect of the crime upon the victim's family. Under amendments adopted by the committee, the appropriate prosecutor's office would be responsible for notifying either the victim of the crime, if the crime for which the inmate was incarcerated was of the first or second degree or the nearest relative of a murder victim, of their right to file a statement.

This bill would also require that, if a parole hearing is held, that the victim of the crime or the family of a murder victim, as appropriate, be given an opportunity to testify or submit written statements. By committee amendment, the victim of a crime may only testify or submit a written statement if the crime for which the person was incarcerated was a crime of the first or second degree.

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

November 28, 1983

SENATE BILL NO. 1095 (2nd OCR)

To the Senate:

Pursuant to Article V, Section I, Paragraph 14 of the Constitution, I am returning Senate Bill No. 1095 (2nd OCR) with my objections, for reconsideration.

The purpose of this bill is to allow victims of crimes or members of the family of a murder victim to submit a statement for the pre-parole report prepared on each inmate prior to review by the Parole Board or to testify to the Parole Board at the time of the parole hearing. The bill lists what types of information may be included in a victim's statement. In addition, the bill makes the prosecutor's office responsible for notifying at the time of sentencing, the victim of the crime, if the crime for which the inmate was incarcerated was of the first or second degree, or the nearest relative of a murder victim, of their opportunity to file a statement. If the victim desires to make a statement, he must notify the Parole Board. Then, at the time of the parole hearing the Board notifies the victim. \$254,000 is appropriated to effectuate the purposes of this act.

I strongly support the purposes of this bill. Too often victims of a crime are forgotten and the legal system concentrates solely on the rights of the accused. I feel that society should be concerned about the victims of crimes. Victims of violent crimes pay a physical, psychological and financial price. Some pay the ultimate price when their death occurs as a result of violent crime. These victims deserve more than our sympathy. They deserve our support and compensation.

I am pleased that my Administration has developed programs to assist victims of crimes, and I have signed numerous pieces of legislation designed to aid the victims of crime. In April of 1982, I issued a Program Development Guide for Victim/Witness Services in County Prosecutors' Offices. This Guide outlines how prosecutors can provide the necessary level of services to which crime victims and witnesses are entitled. In November of 1982, I signed a bill which increases the funds available to the Violent Crimes Compensation Board by

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enlarging the class of convicted persons who are assessed penalties to be paid to the Board to include disorderly persons, drug, and juvenile offenders. In December of 1982 I signed two other bills in this area. The first is a bill which increased the amounts payable to victims of crimes by the Violent Crimes Compensation Board from \$10,000 to \$25,000. This bill also creates a victim counseling service run by the Violent Crimes Compensation Board to assist victims of crimes. The second bill I signed is a bill to eliminate the requirement of a minimum \$100 out-of-pocket loss for victims of crimes who are over 60 years of age or who are disabled who are applying for compensation to the Violent Crimes Compensation Board. I believe that a criminal should not profit from his crime. As such, in January of this year, I signed a bill which will require the royalties from books or movies about a crime to be paid to the Violent Crimes Compensation Board and not to the criminal. This money will be used to compensate the victims of the crime and not reward the criminal. In addition, I signed legislation which will allow compensation to be paid to victims of crimes under certain circumstances if the offender is the victim's relative or a member of the victim's household.

While I strongly support the concept behind this piece of legislation, I must unfortunately return it to the Legislature so you may consider a minor amendment. Section 2 of this bill amends section 11 of P.L 1979, c. 441 (C.30:4-123.55). As amended by this bill, paragraph c. of section 11 appears to require that if the victim of a crime or the members of the family of a murder victim elect to give testimony to the board panel rather than submit a written statement, the members of the board panel must personally receive the testimony. Due to the fact that only two members and the Chairman of the State Parole Board sit on any one of three board panels, and due to the overload of cases being processed by the Parole Board due to the large prison population, to require live testimony to be received by these few people could dramatically impede the parole process and render the bill unworkable. I propose as an alternative, allowing a senior hearing officer of the parole board, on behalf and under the direction of the board panel, to receive any such testimony. The senior hearing officer then should prepare a report or a transcript of the testimony for presentation to the board panel for their consideration at the

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

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parole eligibility hearing. This alternative will allow the victims of crime or the members of the family of a murder victim the opportunity to present live testimony to a senior member of the Parole Board staff for consideration by the board panel when determining whether an inmate is eligible for parole. Such a process should not impede the system and achieve the same result as intended by S-1095 (2nd OCR).

Accordingly, I herewith return Senate Bill No. 1095 (2nd OCR) for reconsideration and recommend that it be amended as follows:

Page 4, Section 2, Line 37: After "desires.", INSERT "A senior hearing officer of the parole board, on behalf and under the direction of the board panel, may receive the testimony. The senior hearing officer shall prepare a report or a transcript of the testimony for presentation to the board panel at the hearing."

Respectfully,

/s/ Thomas H. Kean

GOVERNOR

(seal)

Attest:

/s/ W. Cary Edwards
Chief Counsel