

30:4-123.47c

LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 2001 **CHAPTER:** 79
NJSA: 30:4-123.47c (Transfers Bureau of Parole to State Parole Board)
BILL NO: S2026 (Substituted for A3214)

SPONSOR(S): Gormley and Matheussen

DATE INTRODUCED: January 9, 2001

COMMITTEE: **ASSEMBLY:** ----
SENATE: Judiciary; Budget

AMENDED DURING PASSAGE: Yes

DATE OF PASSAGE: **ASSEMBLY:** March 29, 2001
SENATE: March 26, 2001

DATE OF APPROVAL: May 4, 2001

FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL (2nd reprint enacted)

(Amendments during passage denoted by superscript numbers)

S2026

SPONSORS STATEMENT: (Begins on page 26 of original bill) Yes

COMMITTEE STATEMENT: **ASSEMBLY:** No

(Judiciary) **SENATE:** Yes 2-8-2001

3-15-2001 (Budget)

FLOOR AMENDMENT STATEMENTS: No

LEGISLATIVE FISCAL NOTE: Yes

A3214

SPONSORS STATEMENT: (Begins on page 26 of original bill) Yes

Bill and Sponsors Statement identical to S2026

COMMITTEE STATEMENT: **ASSEMBLY:** Yes

SENATE: No

FLOOR AMENDMENT STATEMENT: Yes

LEGISLATIVE FISCAL NOTE: Yes

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: Yes

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974.90 New Jersey. Legislature. Senate. Judiciary Committee

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2001

NEWSPAPER ARTICLES: No

SENATE, No. 2026

STATE OF NEW JERSEY
209th LEGISLATURE

INTRODUCED JANUARY 9, 2001

Sponsored by:

Senator WILLIAM L. GORMLEY

District 2 (Atlantic)

Senator JOHN J. MATHEUSSEN

District 4 (Camden and Gloucester)

SYNOPSIS

Transfers the Bureau of Parole in the Department of Corrections to the State Parole Board.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning parole and revising various parts of the statutory
2 law.

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

6
7 1. (New section) a. All functions, powers and duties of the existing
8 Bureau of Parole in the Department of Corrections are hereby
9 transferred to the State Parole Board.

10 b. All files, books, papers, records, equipment and other property
11 of the Bureau of Parole in the Department of Corrections shall be
12 transferred to the State Parole Board.

13 c. All appropriations and other moneys available and to become
14 available to the Bureau of Parole in the Department of Corrections,
15 the functions, powers and duties of which have been assigned or
16 transferred herein, are hereby transferred to the State Parole Board
17 and shall be available for the objects and purposes for which
18 appropriated, subject to any terms, restrictions, limitations or other
19 requirements imposed by State or Federal law.

20 d. The employees of the Bureau of Parole in the Department of
21 Corrections are hereby transferred to the State Parole Board.

22 e. Nothing in P.L. c, (C.)(now pending before the
23 Legislature as this bill) shall be construed to deprive any person of any
24 tenure rights or of any right or protection provided him by Title 11 of
25 the Revised Statutes, Civil Service, or under any pension law or
26 retirement system.

27 f. P.L. c, (C.)(now pending before the Legislature as this bill)
28 shall not affect actions or proceedings, civil or criminal, brought by
29 or against the Bureau of Parole in the Department of Corrections, the
30 functions, powers and duties of which have been herein assigned or
31 transferred to the State Parole Board.

32
33 2. Section 1 of P.L.1979, c. 441 (C. 30:4-123.45) is amended to
34 read as follows:

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

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

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

40 (2) "Juvenile inmate" means any person under commitment as a
41 juvenile delinquent pursuant to section 25 of P.L.1982, c.77
42 (C.2A:4A-44).

43 (3) "Parole release date" means that date certified by a member of

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.

1 the board for release of an inmate after a review of the inmate's case
2 pursuant to section 11, 13 or 14 of this act.

3 (4) "Primary parole eligibility date" means that date established for
4 parole eligibility for adult inmates pursuant to section 7 or 20 of this
5 act.

6 (5) "Public notice" shall consist of lists including names of all
7 inmates being considered for parole, the county from which he was
8 committed and the crime for which he was incarcerated. At least 30
9 days prior to parole consideration such lists shall be forwarded to the
10 prosecutor's office of each county, the sentencing court, the office of
11 the Attorney General, any other criminal justice agencies whose
12 information and comment may be relevant, and news organizations.

13 (6) Removal for "cause" means such substantial cause as is plainly
14 sufficient under the law and sound public policy touching upon
15 qualifications appropriate to a member of the parole board or the
16 administration of said board such that the public interest precludes the
17 member's continuance in office. Such cause includes, but is not limited
18 to, misconduct in office, incapacity, inefficiency and nonfeasance.

19 (7) "Commission" means the Juvenile Justice Commission
20 established pursuant to section 2 of P.L.1995, c.284 (C.52:17B-170).

21 (8) "Parole officer" means, with respect to an adult inmate, an
22 officer assigned by the [Bureau of Parole] Chairman of the State
23 Parole Board or his designee and, with respect to a juvenile inmate,
24 a person assigned by the commission.

25 (cf: P.L.1995, c.280, s.34).

26

27 3. Section 1 of P.L.1997, c.215 (C.30:4-123.47a) is amended to
28 read as follows:

29 1. There is hereby established a Parole Advisory Board in, but not
30 of, the [Bureau of Parole] State Parole Board. Notwithstanding the
31 allocation of the board within the [bureau] State Parole Board, the
32 [bureau] State Parole Board or any employee thereof shall not
33 exercise any control over the [board] Parole Advisory Board. The
34 advisory board shall consist of 23 members. It shall include in its
35 membership the [Chief of the Bureau of Parole in the Department of
36 Corrections] Chairman of the State Parole Board or his designee, who
37 shall serve ex officio; one member representing each of the following
38 organizations and groups, who shall be appointed by the Governor:
39 [the State Parole Board,] the Department of Corrections, the
40 Department of Health and Senior Services, the Department of Law and
41 Public Safety, Office of the Governor, the Administrative Office of the
42 Courts, the Victims of Crime Compensation Board, the New Jersey
43 Chapter of the American Correctional Association, the County
44 Prosecutors Association of New Jersey, the Sheriffs' Association of
45 New Jersey, the New Jersey Wardens Association, the New Jersey
46 State Association of Chiefs of Police, the American Parole and

1 Probation Association, Governor's Council on Alcoholism and Drug
2 Abuse, the community at large, treatment providers, victims' rights
3 groups and former inmates who have successfully completed parole.
4 Two members of the Senate, who shall not be of the same political
5 party and who shall serve during their terms of office, shall be
6 appointed by the President of the Senate. Two members of the
7 General Assembly, who shall not be of the same political party and
8 who shall serve during their terms of office, shall be appointed by the
9 Speaker of the General Assembly.

10 Members of the advisory board shall be appointed with the advice
11 and consent of the Senate, and serve a term of three years, except for
12 the initial gubernatorial appointees, six of whom shall serve for two
13 years and six of whom shall serve for four years. Each member shall
14 serve for the term of appointment and until a successor is appointed.
15 A member may be reappointed to the advisory board. A member
16 appointed to fill a vacancy occurring in the membership of the advisory
17 board for any reason other than the expiration of the term shall serve
18 a term of appointment for the unexpired term only. All vacancies shall
19 be filled in the same manner as the original appointments. Any
20 appointed member of the advisory board, except the legislative
21 members, may be removed from the advisory board by the Governor,
22 for cause, after a hearing, and may be suspended by the Governor
23 pending the completion of the hearing. Legislative members may be
24 removed for cause by the leader of their respective houses. Motions
25 and resolutions may be adopted by the advisory board at a board
26 meeting by an affirmative vote of not less than 12 members.

27 Members of the advisory board shall serve without compensation
28 but shall be entitled to reimbursement for actual expenses of serving
29 on the board, to the extent that funds are available for this purpose.

30 The advisory board shall organize as soon as possible after the
31 appointment of its members. The members shall select a chair from
32 among their number.

33 (cf: P.L.1997, c.215, s.1).

34

35 4. Section 2 of P.L.1997, c.215 (C.30:4-123.47b.) is amended to
36 read as follows:

37 2. It shall be the duty of the advisory board to review and comment
38 on supervision issues, the development and implementation of drug
39 and alcohol treatment programs for parolees, and any other issues as
40 requested by the [Commissioner of Corrections] State Parole Board,
41 taking into consideration all relevant research [conducted by the
42 Bureau of Parole]. The advisory board shall sponsor conferences
43 with criminal justice administrators and community members, including
44 treatment providers, in order to educate all interested parties in the
45 importance of relapse prevention and treatment for specialized cases,
46 and to address issues such as lowering costs, developing protocols for

1 confidentiality, identifying the type and amount of treatment that
2 should be available, and promoting community involvement in the
3 reintegration process. The advisory board may make
4 recommendations to the Commissioner of Corrections, the Chairman
5 of the State Parole Board, the Legislature and the Governor in these
6 matters.

7 The advisory board shall meet at least semiannually and may hold
8 hearings at any place or places it shall designate during the sessions or
9 recesses of the Legislature. The [Bureau of Parole] State Parole
10 Board shall have primary responsibility for providing staff services and
11 other necessary support to the board. The advisory board may also
12 request the assistance and services of the employees of any State,
13 county or municipal department, board, bureau, commission, task
14 force or agency as it may require and as may be available to it for its
15 purposes. The advisory board may, within the limits of funds
16 appropriated or otherwise made available to it for its purposes, employ
17 stenographic and clerical assistants and incur travel and miscellaneous
18 expenses necessary for the performance of its duties.
19 (cf: P.L.1997, c.215, s.2).

20

21 5. Section 4 of P.L.1979, c.441 (C.30:4-123.48) is amended to
22 read as follows:

23 4. a. All policies and determinations of the Parole Board shall be
24 made by the majority vote of the members.

25 b. Except where otherwise noted, parole determinations on
26 individual cases pursuant to this act shall be made by the majority vote
27 of a quorum of the appropriate board panel established pursuant to this
28 section.

29 c. The chairman of the board shall be the chief executive officer
30 of the board and, after consulting with the board, shall be responsible
31 for designating the time and place of all board meetings, for appointing
32 the board's employees, for organizing, controlling and directing the
33 work of the board and its employees, and for preparation and
34 justification of the board's budget. The nonsecretarial professional and
35 supervisory employees of the board such as, but not limited to, hearing
36 officers, shall serve at the pleasure of the chairman and shall not be
37 subject to the provisions of Title 11 of the Revised Statutes. [Nothing
38 contained herein shall be deemed to affect the employees of the
39 Department of Corrections, such as parole officers assigned to
40 supervise parolees] Parole officers assigned to supervise parolees and
41 all supervisory titles associated with the supervision of parolees in the
42 parole officer series shall be classified employees subject to the
43 provisions of Title 11 of the Revised Statutes. Parole officers assigned
44 to supervise parolees and all supervisory titles associated with the
45 supervision of parolees in the parole officer job classification series
46 shall be organizationally assigned to the State Parole Board with a

1 designee promoted through the ranks of the parole officer job
2 classification series to act as director of parole supervision. The
3 director of parole supervision shall report directly to the Chairman of
4 the State Parole Board.

5 d. The board shall promulgate such reasonable rules and
6 regulations, consistent with this act, as may be necessary for the
7 proper discharge of its responsibilities. The chairman shall file such
8 rules and regulations with the Secretary of State. The provisions of
9 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
10 seq.) shall apply to the promulgation of rules and regulations
11 concerning policy and administration, but not to other actions taken
12 under this act, such as parole hearings, parole revocation hearings and
13 review of parole cases. In determination of its rules and regulations
14 concerning policy and administration, the board shall consult the
15 Governor, the Commissioner of Corrections and the Juvenile Justice
16 Commission established pursuant to section 2 of P.L.1995, c.284
17 (C.52:17B-170).

18 e. The board, in conjunction with the Department of Corrections
19 and the Juvenile Justice Commission, shall develop a uniform
20 information system in order to closely monitor the parole process.
21 Such system shall include participation in the Uniform Parole Reports
22 of the National Council on Crime and Delinquency.

23 f. The board shall transmit a report of its work for the preceding
24 fiscal year, including information on the causes and extent of parole
25 recidivism, to the Governor, the Legislature and the Juvenile Justice
26 Commission annually.

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

29 h. The board shall give notice to the appropriate prosecutor's
30 office and to the committing court prior to the initial consideration of
31 any juvenile inmate for release.

32 (cf: P.L.1995, c.280, s.35).

33
34 6. Section 3 of P.L.1997, c.117 (C.30:4-123.51b.) is amended to
35 read as follows:

36 3. a. A person who has been sentenced to a term of parole
37 supervision and is on release status in the community pursuant to
38 section 2 of P.L.1997, c.117 (C.2C:43-7.2) shall, during the term of
39 parole supervision, remain on release status in the community, in the
40 legal custody of the Commissioner of the Department of Corrections,
41 and shall be supervised by the [Bureau of Parole of the Department
42 of Corrections] parole officers in the State Parole Board as if on
43 parole, and shall be subject to the provisions and conditions set by the
44 appropriate board panel. The appropriate board panel shall have the
45 authority, in accordance with the procedures and standards set forth
46 in sections 15 through 21 of P.L.1979, c.441 (C.30:4-123.59 through

1 30:4-123.65), to revoke the person's release status and return the
2 person to custody for the remainder of the term or until it is
3 determined, in accordance with regulations adopted by the board, that
4 the person is again eligible for release consideration pursuant to
5 section 9 of P.L.1979, c.441 (C.30:4-123.53).

6 b. The Parole Board shall promulgate rules and regulations
7 necessary to carry out the purposes of this act pursuant to the
8 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
9 seq.).
10 (cf: P.L.1997, c.117, s.3).

11

12 7. Section 1 of P.L.1997, c.214 (C.30:4-123.51c) is amended to
13 read as follows:

14 1. a. (1) For the purpose of this section, "terminal condition,
15 disease or syndrome" means a prognosis by the licensed physicians
16 designated by the Commissioner of Corrections pursuant to subsection
17 b. of this section that an inmate has six months or less to live.

18 (2) Except as otherwise provided in paragraph (3) of this
19 subsection, the appropriate board panel may release on medical parole
20 any inmate serving any sentence of imprisonment who has been
21 diagnosed pursuant to subsection b. of this section as suffering from
22 a terminal condition, disease or syndrome and is found by the
23 appropriate board panel to be so debilitated or incapacitated by the
24 terminal condition, disease or syndrome as to be permanently
25 physically incapable of committing a crime if released on parole.
26 Notwithstanding any provision of P.L.1979, c.441 (C.30:4-123.45 et
27 seq.) to the contrary, the appropriate board panel may release any such
28 inmate at any time during the term of the sentence. An inmate placed
29 on parole pursuant to this section shall be subject to custody,
30 supervision and conditions as provided in section 15 of P.L.1979,
31 c.441 [(C.30:3-123.59)] (C.30:4-123.59) and shall be subject to
32 sanctions for a violation of a condition of parole as provided in
33 sections 16 through 21 of P.L.1979, c.441 (C.30:4-123.60 through
34 30:4-123.65).

35 (3) No inmate serving any sentence for a violation of
36 N.J.S.2C:11-3; N.J.S.2C:11-4; N.J.S.2C:13-1; subsection a. of
37 N.J.S.2C:14-2; N.J.S.2C:15-1 in which the inmate, while in the course
38 of committing the theft, attempted to kill another, or purposely
39 inflicted or attempted to inflict serious bodily injury, or was armed
40 with or used or threatened the immediate use of a deadly weapon;
41 subsection a. of N.J.S.2C:17-1; or N.J.S.2C:24-4 or an attempt to
42 commit any of these offenses shall be eligible for the medical parole
43 authorized under paragraph (2) of this section.

44 b. A medical diagnosis that an inmate is suffering from a terminal
45 condition, disease or syndrome shall be made by two licensed
46 physicians designated by the Commissioner of Corrections. The

1 diagnosis shall include, but not be limited to:

2 (1) a description of the terminal condition, disease or syndrome;

3 (2) a prognosis concerning the likelihood of recovery from the
4 terminal condition, disease or syndrome;

5 (3) a description of the inmate's physical incapacity; and

6 (4) a description of the type of ongoing treatment that would be
7 required if the inmate were released on medical parole.

8 c. A request for a medical diagnosis to determine whether an
9 inmate is eligible for a medical parole under this section may be
10 submitted to the appropriate board panel by the Commissioner of
11 Corrections, the administrator or superintendent of a correctional
12 facility; the inmate; a member of the inmate's family or the inmate's
13 attorney. The request shall be submitted in a manner and form
14 prescribed by the board.

15 d. At least five working days prior to commencing its review of a
16 request for a medical parole, the appropriate board panel shall notify
17 the appropriate sentencing court; county prosecutor or, if the matter
18 was prosecuted by the Attorney General, the Attorney General; and
19 any victim or member of the family of a victim entitled to notice
20 relating to a parole or the consideration of a parole under the
21 provisions of P.L.1979, c.441 (C.30:4-123.45 et seq.). The notice
22 shall be given in the manner prescribed by the board and shall contain
23 all such information and documentation relating to the medical
24 diagnosis prepared pursuant to subsection b. of this section as the
25 board shall deem appropriate and necessary.

26 Upon receipt of the notice, the sentencing court; county prosecutor
27 or Attorney General, as the case may be; the victim or member of the
28 family of the victim, as the case may be, shall have 10 working days
29 to review the notice and submit comments to the appropriate board
30 panel. If a recipient of the notice does not submit comments within
31 that 10-day period following the receipt of the notice, the panel may
32 presume that the recipient does not wish to submit comments and
33 proceed with its consideration of the request for medical parole. Any
34 comments provided by a recipient shall be delivered to the appropriate
35 board panel in the same manner or by the same method as notice was
36 given by the panel to that recipient.

37 The information contained in any notice given by a panel pursuant
38 to this subsection and the contents of any comments submitted by a
39 recipient in response thereto shall be confidential and shall not be
40 disclosed to any person who is not authorized to receive or review that
41 information or those comments.

42 Notice given under the provisions of this subsection shall be in lieu
43 of any other notice of parole consideration required under P.L.1979,
44 c.441 (C.30:4-123.45 et seq.).

45 Nothing in this subsection shall be construed to impair any party's
46 right to be heard pursuant to P.L.1979, c.441 (C.30:4-123.45 et seq.).

1 e. The appropriate board panel shall conduct its review of a request
2 for medical parole as expeditiously as possible.

3 The appropriate board panel shall provide written notice of its
4 decision to the sentencing court; the county prosecutor or Attorney
5 General, as the case may be; and any victim or member of a victim's
6 family given notice pursuant to subsection d. of this section.

7 f. Whenever an inmate is granted medical parole pursuant to this
8 section, the appropriate board shall require, as a condition precedent
9 to release, that the inmate's release plan include:

10 (1) identification of a community sponsor;

11 (2) verification of the availability of appropriate medical services
12 sufficient to meet the treatment requirements identified pursuant to
13 paragraph (4) of subsection b. of this section; and

14 (3) verification of appropriate housing which may include, but need
15 not be limited to, a hospital, hospice, nursing home facility or other
16 housing accommodation suitable to the inmate's medical condition,
17 disease or syndrome.

18 g. In addition to any conditions imposed pursuant to section 15 of
19 P.L.1979, c.441 (C.30:4-123.59), as a condition of release on medical
20 parole, the appropriate board panel may require an inmate to submit
21 to periodic medical diagnoses by a licensed physician.

22 h. If, after review of a medical diagnosis required under the
23 provisions of subsection g. of this section, the appropriate board panel
24 determines that a parolee released on medical parole is no longer so
25 debilitated or incapacitated by a terminal condition, disease or
26 syndrome as to be physically incapable of committing a crime, the
27 parolee shall be returned to confinement in an appropriate facility
28 designated by the Commissioner of Corrections.

29 A decision to return the parolee to confinement pursuant to this
30 subsection shall be rendered only after a hearing by the appropriate
31 board panel or by a hearing officer designated by the chairman of the
32 board. Nothing in this subsection shall be construed to limit the
33 authority of the board, an appropriate board panel or [any] parole
34 officer of the State Parole Board to address a violation of a condition
35 of parole pursuant to sections 16 through 21 of P.L.1979, c.441
36 (C.30:4-123.60 through 30:4-123.65).

37 i. The denial of a request for medical parole or the return of a
38 parolee to confinement under the provisions of subsection h. of this
39 section shall not preclude that inmate from being considered for parole
40 pursuant to subsection a. of section 7 of P.L.1979, c.441
41 (C.30:4-123.51).

42 (cf: P.L.1997, c.214, s.1).

43
44 8. Section 1 of P.L.1994, c.135 (C.30:4-123.53a.) is amended to
45 read as follows:

46 1. a. As used in this act: "Prosecutor" means the county

1 prosecutor of the county in which the defendant was convicted unless
2 the matter was prosecuted by the Attorney General, in which case
3 "prosecutor" means the Attorney General.

4 "Office of Victim Witness Advocacy" means the Office of Victim
5 Witness Advocacy of the county in which the defendant was
6 convicted.

7 b. Notwithstanding any other provision of law to the contrary, the
8 [Department of Corrections] State Parole Board shall provide written
9 notice to the prosecutor of the anticipated release from incarceration
10 in a county or State penal institution or the Adult Diagnostic and
11 Treatment Center of a person convicted of murder; manslaughter;
12 aggravated sexual assault; sexual assault; aggravated assault;
13 aggravated criminal sexual contact; kidnapping pursuant to paragraph
14 (2) of subsection c. of N.J.S.2C:13-1; endangering the welfare of a
15 child by engaging in sexual conduct which would impair or debauch
16 the morals of the child pursuant to subsection a. of N.J.S.2C:24-4;
17 endangering the welfare of a child pursuant to paragraph (4) of
18 subsection b. of N.J.S.2C:24-4; luring or enticing pursuant to section
19 1 of P.L.1993, c.291 (C.2C:13-6); any other offense involving serious
20 bodily injury or an attempt to commit any of the aforementioned
21 offenses.

22 c. Notwithstanding any other provision of law to the contrary, the
23 Juvenile Justice Commission established pursuant to section 2 of
24 P.L.1995, c.284 (C.52:17B-170) shall provide written notice to the
25 prosecutor of the anticipated release from incarceration of a juvenile
26 adjudicated delinquent on the basis of an offense which, if committed
27 by an adult, would constitute murder; manslaughter; aggravated sexual
28 assault; sexual assault; aggravated assault; aggravated criminal sexual
29 contact; kidnapping pursuant to paragraph (2) of subsection c. of
30 N.J.S.2C:13-1; endangering the welfare of a child by engaging in
31 sexual conduct which would impair or debauch the morals of the child
32 pursuant to subsection a. of N.J.S.2C:24-4; endangering the welfare
33 of a child pursuant to paragraph (4) of subsection b. of N.J.S.2C:24-4;
34 luring or enticing pursuant to section 1 of P.L.1993, c.291
35 (C.2C:13-6); any other offense involving serious bodily injury or an
36 attempt to commit any of the aforementioned offenses.

37 d. If available, the notice shall be provided to the prosecutor 90
38 days before the inmate's anticipated release; provided however, the
39 notice shall be provided at least 30 days before release. The notice
40 shall include the person's name, identifying factors, offense history,
41 and anticipated future residence. The prosecutor shall notify the
42 Office of Victim and Witness Advocacy and that office shall use any
43 reasonable means available to them to notify the victim of the
44 anticipated release unless the victim has requested not to be notified.

45 e. Upon receipt of notice, the prosecutor shall provide notice to
46 the law enforcement agency responsible for the municipality where the

1 inmate will reside, the municipality in which any victim resides, and
2 such other State and local law enforcement agencies as appropriate for
3 public safety.

4 (cf: P.L.1995, c.280, s.37).

5
6 9. Section 15 of P.L.1979, c.441 (C.30:4-123.59) is amended to
7 read as follows:

8 15. a. Each adult parolee shall at all times remain in the legal
9 custody of the Commissioner of Corrections and under the supervision
10 of the State Parole Board and each juvenile parolee shall at all times
11 remain in the legal custody of the Juvenile Justice Commission
12 established pursuant to section 2 of P.L.1995, c.284 (C.52:17B-170)
13 and under the supervision of the State Parole Board , except that the
14 Commissioner of Corrections or the Executive Director of the Juvenile
15 Justice Commission, after providing notice to the Attorney General,
16 may consent to the supervision of a parolee by the federal government
17 pursuant to the Witness Security Reform Act, Pub.L.98-473 (18
18 U.S.C. s.3251 et seq.). A parolee, except those under the Witness
19 Security Reform Act, shall remain under the supervision of the
20 [Bureau of Parole] State Parole Board and in the legal custody of the
21 Department of Corrections or the Juvenile Justice Commission, as
22 appropriate, in accordance with the policies and rules of the board.

23 b. Each parolee shall agree, as evidenced by his signature to abide
24 by specific conditions of parole established by the appropriate board
25 panel which shall be enumerated in writing in a certificate of parole
26 and shall be given to the parolee upon release. Such conditions shall
27 include, among other things, a requirement that the parolee conduct
28 himself in society in compliance with all laws and refrain from
29 committing any crime, a requirement that the parolee will not own or
30 possess any firearm as defined in subsection f. of N.J.S.2C:39-1 or any
31 other weapon enumerated in subsection r. of N.J.S.2C:39-1, a
32 requirement that the parolee refrain from the use, possession or
33 distribution of a controlled dangerous substance, controlled substance
34 analog or imitation controlled dangerous substance as defined in
35 N.J.S.2C:35-2 and N.J.S.2C:35-11, a requirement that the parolee
36 obtain permission from his parole officer for any change in his
37 residence, and a requirement that the parolee report at reasonable
38 intervals to an assigned parole officer. In addition, based on prior
39 history of the parolee or information provided by a victim or a member
40 of the family of a murder victim, the member or board panel certifying
41 parole release pursuant to section 11 of P.L.1979, c.441
42 (C.30:4-123.55) may impose any other specific conditions of parole
43 deemed reasonable in order to reduce the likelihood of recurrence of
44 criminal or delinquent behavior. Such special conditions may include,
45 among other things, a requirement that the parolee make full or partial
46 restitution, the amount of which restitution shall be set by the

1 sentencing court upon request of the board. In addition, the member
2 or board panel certifying parole release may, giving due regard to a
3 victim's request, impose a special condition that the parolee have no
4 contact with the victim, which special condition may include, but need
5 not be limited to, restraining the parolee from entering the victim's
6 residence, place of employment, business or school, and from
7 harassing or stalking the victim or victim's relatives in any way.

8 c. The appropriate board panel may in writing relieve a parolee of
9 any parole conditions, and may permit a parolee to reside outside the
10 State pursuant to the provisions of the Uniform Act for Out-of-State
11 Parolee Supervision (N.J.S.2A:168-14 et seq.), the Interstate Compact
12 on Juveniles, P.L.1955, c.55 (C.9:23-1 to 9:23-4), and, with the
13 consent of the Commissioner of the Department of Corrections or the
14 Executive Director of the Juvenile Justice Commission after providing
15 notice to the Attorney General, the federal Witness Security Reform
16 Act, if satisfied that such change will not result in a substantial
17 likelihood that the parolee will commit an offense which would be a
18 crime under the laws of this State. The appropriate board panel may
19 revoke such permission, except in the case of a parolee under the
20 Witness Security Reform Act, or reinstate relieved parole conditions
21 for any period of time during which a parolee is under its jurisdiction.

22 d. The appropriate board panel may parole an inmate to any
23 residential facility funded in whole or in part by the State if the inmate
24 would not otherwise be released pursuant to section 9 of P.L.1979,
25 c.441 (C.30:4-123.53) without such placement. But if the residential
26 facility provides treatment for mental illness or mental retardation, the
27 board panel only may parole the inmate to the facility pursuant to the
28 laws and admissions policies that otherwise govern the admission of
29 persons to that facility, and the facility shall have the authority to
30 discharge the inmate according to the laws and policies that otherwise
31 govern the discharge of persons from the facility, on 10 days' prior
32 notice to the board panel. The board panel shall acknowledge receipt
33 of this notice in writing prior to the discharge. Upon receipt of the
34 notice the board panel shall resume jurisdiction over the inmate.

35 e. [The assigned parole officer] Parole officers shall provide
36 assistance to the parolee in obtaining employment, education or
37 vocational training or in meeting other obligations to assure the
38 parolees compliance with meeting legal requirements related to sex
39 offender notification, address changes and participation in
40 rehabilitation programs as directed by the assigned parole officer.

41 f. The board panel on juvenile commitments and the assigned
42 parole officer shall insure that the least restrictive available alternative
43 is used for any juvenile parolee.

44 g. If the board has granted parole to any inmate from a State
45 correctional facility or juvenile facility and the court has imposed a fine
46 on such inmate, the appropriate board panel shall release such inmate

1 on condition that the parolee make specified fine payments to the
2 Bureau of Parole or the Juvenile Justice Commission. For violation of
3 such conditions, or for violation of a special condition requiring
4 restitution, parole may be revoked only for refusal or failure to make
5 a good faith effort to make such payment.

6 h. Upon collection of the fine the same shall be paid over by the
7 Department of Corrections or by the Juvenile Justice Commission to
8 the State Treasury.
9 (cf: P.L.1997, c.218).

10

11 10. Section 16 of P.L.1979, c.441 (C.30:4-123.60) is amended to
12 read as follows:

13 16. a. Any parolee who violates a condition of parole may be
14 subject to an order pursuant to section 17 of P.L.1979, c.441
15 (C.30:4-123.61) providing for one or more of the following: (1) That
16 he be required to conform to one or more additional conditions of
17 parole; (2) That he forfeit all or a part of commutation time credits
18 granted pursuant to R.S.30:4-140.

19 b. Any parolee who has seriously or persistently violated the
20 conditions of his parole, may have his parole revoked and may be
21 returned to custody pursuant to sections 18 and 19 of P.L.1979, c.441
22 (C.30:4-123.62 and 30:4-123.63). The board shall be notified
23 immediately upon the arrest or indictment of a parolee or upon the
24 filing of charges that the parolee committed an act which, if committed
25 by an adult, would constitute a crime. The board shall not revoke
26 parole on the basis of new charges which have not resulted in a
27 disposition at the trial level except that upon application by the
28 prosecuting authority, the Juvenile Justice Commission established
29 pursuant to section 2 of P.L.1995, c.284 (C.52:17B-170) or the Chief
30 of the [Bureau] State Parole Board's Division of Parole, the
31 chairman of the board or his designee may at any time detain the
32 parolee and commence revocation proceedings pursuant to sections 18
33 and 19 of P.L.1979, c.441 (C.30:4-123.62 and 30:4-123.63) when the
34 chairman determines that the new charges against the parolee are of a
35 serious nature and it appears that the parolee otherwise poses a danger
36 to the public safety. In such cases, a parolee shall be informed that, if
37 he testifies at the revocation proceedings, his testimony and the
38 evidence derived therefrom shall not be used against him in a
39 subsequent criminal prosecution or delinquency adjudication.

40 c. Any parolee who is convicted of a crime or adjudicated
41 delinquent for an act which, if committed by an adult, would constitute
42 a crime, committed while on parole shall have his parole revoked and
43 shall be returned to custody unless the parolee demonstrates, by clear
44 and convincing evidence at a hearing pursuant to section 19 of
45 P.L.1979, c.441 (C.30:4-123.63), that good cause exists why he

1 should not be returned to confinement.

2 (cf: P.L.1995,c.280,s.40).

3

4 11. Section 18 of P.L.1979, c.441 (C.30:4-123.62) is amended to
5 read as follows:

6 18. a. (1) If a parole officer assigned to supervise a parolee has
7 probable cause to believe that the parolee has violated a condition of
8 his parole, such violation being a basis for return to custody pursuant
9 to subsection b. of section 16 of P.L.1979, c.441 (C.30:4-123.60), a
10 designated representative of the chairman of the board may issue a
11 warrant for the arrest of the parolee if evidence indicates that the
12 parolee may not appear at the preliminary hearing or if the parolee
13 poses a danger to the public safety. With the parole warrant, a law
14 enforcement officer may apprehend the delinquent parolee.

15 (2) If a parole officer assigned to supervise a parolee has probable
16 cause to believe that the parolee has committed a crime, has
17 committed an act or is about to commit an act which, if committed by
18 an adult, would constitute a crime, is about to commit a crime or is
19 about to flee the jurisdiction, which violation is a basis for return to
20 custody pursuant to subsection b. of section 16 of P.L.1979, c.441
21 (C.30:4-123.60), and the situation is one of immediate emergency that
22 cannot await the issuance of a warrant by a designated representative,
23 the parole officer, by the parole officer's own warrant, may apprehend
24 the parolee and cause his detention in a suitable facility designated by
25 the Department of Corrections or the Juvenile Justice Commission
26 established pursuant to section 2 of P.L.1995, c.284 (C.52:17B-170),
27 as appropriate, or cause the parolee's confinement in an appropriate
28 institution pending return to a facility designated by the Department
29 of Corrections or the Juvenile Justice Commission, as appropriate, to
30 await the conduction of a preliminary hearing. The warrant shall be in
31 the form prescribed, as appropriate, by the Juvenile Justice
32 Commission or by the [Bureau of Parole and approved by the
33 Department of Corrections] State Parole Board and, when signed by
34 the officer in charge of the case, shall be a sufficient instrument and
35 authority to all peace officers to assist in the apprehension of the
36 parolee. It shall also be sufficient authority for detention of the
37 parolee in a suitable facility, to await the conduction of the preliminary
38 hearing. Upon enforcement of the warrant, the appropriate board panel
39 shall be promptly notified. No parolee held in custody on a parole
40 warrant shall be entitled to release on bail.

41 b. A parolee retaken under this section shall within 14 days be
42 granted a preliminary hearing to be conducted by a hearing officer not
43 previously involved in the case, unless the parolee or the hearing
44 officer requests postponement of the preliminary hearing, which may
45 be granted by the appropriate board panel for good cause, but in no
46 event shall such postponement, if requested by the hearing officer,

1 exceed 14 days.

2 c. The preliminary hearing shall be for the purpose of determining:

3 (1) Whether there is probable cause to believe that the parolee
4 violated a condition of his parole being the basis for return to custody
5 pursuant to subsection b. of section 16 of P.L.1979, c.441
6 (C.30:4-123.60), and

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

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

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

12 (2) The time, date, place and circumstances of the alleged
13 violation;

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

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

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

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

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

23 f. If the evidence presented at the preliminary hearing does not
24 support a finding of probable cause to believe that the parolee has
25 violated a condition of his parole, such violation being a basis for
26 return to custody pursuant to subsection b. of section 16 of P.L.1979,
27 c.441 (C.30:4-123.60), or if it is otherwise determined that revocation
28 is not desirable, the hearing officer may, in accordance with the
29 provisions of subsection a. of section 16 of P.L.1979, c.441
30 (C.30:4-123.60) and section 17 of P.L.1979, c.441 (C.30:4-123.61),
31 issue an order modifying parole and releasing the offender, or
32 continuing parole and releasing the offender.

33 g. If the evidence presented at the preliminary hearing supports a
34 finding of probable cause to believe that the parolee has violated a
35 condition of his parole, the hearing officer shall determine whether the
36 parolee shall be retained in custody or released on specific conditions
37 pending action by the appropriate board panel.

38 h. Conviction of a crime committed while on parole or
39 adjudication of delinquency for an act which, if committed by an adult,
40 would constitute a crime shall be deemed to constitute probable cause
41 to believe that the parolee has violated a condition of parole.

42 (cf: P.L.1995, c.280, s.42).

43

44 12. (New section) Notwithstanding any other provision of law to
45 the contrary, a person may serve as both the Commissioner of
46 Corrections and the Chairman of the State Parole Board; except that

1 the person shall receive only the salary of the Commissioner of
2 Corrections.

3

4 13. Section 3 of P.L.1993, c.246 (C.43:16A-1.4) is amended to
5 read as follows:

6 3. If the Board of Trustees of the Police and Fireman's Retirement
7 System of New Jersey makes a determination, pursuant to section 9 of
8 P.L.1989, c.204 (C.43:16A-1.2), that the parole officers employed by
9 the [Bureau of Parole in the Department of Corrections] State Parole
10 Board are eligible for membership in the Police and Firemen's
11 Retirement System pursuant to section 1 of P.L.1944, c.255
12 (C.43:16A-1), the enrollment of those parole officers shall occur no
13 earlier than one year after the effective date of this section pursuant to
14 P.L.1993, c.246 (C.43:16A-1.4 et al.).
15 (cf: P.L.1993, c.246, s.3).

16

17 14. Section 1 of P.L.1968, c.427 (C.2A:154-4) is amended to read
18 as follows:

19 1. All correction officers of the State of New Jersey, parole
20 officers employed by the [Bureau of Parole in the Department of
21 Corrections] State Parole Board and investigators in the Department
22 of Corrections, who have been or who may hereafter be appointed or
23 employed, shall, by virtue of such appointment or employment and in
24 addition to any other power or authority, be empowered to act as
25 officers for the detection, apprehension, arrest and conviction of
26 offenders against the law.
27 (cf: P.L.1993, c.246, s.1).

28

29 15. N.J.S.2C:39-6 is amended to read as follows:

30 2C:39-6. a. Provided a person complies with the requirements of
31 subsection j. of this section, N.J.S.2C:39-5 does not apply to:

32 (1) Members of the Armed Forces of the United States or of the
33 National Guard while actually on duty, or while traveling between
34 places of duty and carrying authorized weapons in the manner
35 prescribed by the appropriate military authorities;

36 (2) Federal law enforcement officers, and any other federal officers
37 and employees required to carry firearms in the performance of their
38 official duties;

39 (3) Members of the State Police and, under conditions prescribed
40 by the superintendent, members of the Marine Law Enforcement
41 Bureau of the Division of State Police;

42 (4) A sheriff, undersheriff, sheriff's officer, county prosecutor,
43 assistant prosecutor, prosecutor's detective or investigator, deputy
44 attorney general or State investigator employed by the Division of
45 Criminal Justice of the Department of Law and Public Safety,
46 investigator employed by the State Commission of Investigation,

1 inspector of the Alcoholic Beverage Control Enforcement Bureau of
2 the Division of State Police in the Department of Law and Public
3 Safety authorized to carry such weapons by the Superintendent of
4 State Police, State park ranger, or State conservation officer;

5 (5) A prison or jail warden of any penal institution in this State or
6 his deputies, or an employee of the Department of Corrections
7 engaged in the interstate transportation of convicted offenders, while
8 in the performance of his duties, and when required to possess the
9 weapon by his superior officer, or a correction officer or keeper of a
10 penal institution in this State at all times while in the State of New
11 Jersey, provided he annually passes an examination approved by the
12 superintendent testing his proficiency in the handling of firearms;

13 (6) A civilian employee of the United States Government under the
14 supervision of the commanding officer of any post, camp, station, base
15 or other military or naval installation located in this State who is
16 required, in the performance of his official duties, to carry firearms,
17 and who is authorized to carry such firearms by said commanding
18 officer, while in the actual performance of his official duties;

19 (7) (a) A regularly employed member, including a detective, of the
20 police department of any county or municipality, or of any State,
21 interstate, municipal or county park police force or boulevard police
22 force, at all times while in the State of New Jersey;

23 (b) A special law enforcement officer authorized to carry a weapon
24 as provided in subsection b. of section 7 of P.L.1985, c.439
25 (C.40A:14-146.14);

26 (c) An airport security officer or a special law enforcement officer
27 appointed by the governing body of any county or municipality, except
28 as provided in subsection b. of this section, or by the commission,
29 board or other body having control of a county park or airport or
30 boulevard police force, while engaged in the actual performance of his
31 official duties and when specifically authorized by the governing body
32 to carry weapons;

33 (8) A full-time, paid member of a paid or part-paid fire department
34 or force of any municipality who is assigned full-time or part-time to
35 an arson investigation unit created pursuant to section 1 of P.L.1981,
36 c.409 (C.40A:14-7.1) or to the county arson investigation unit in the
37 county prosecutor's office, while either engaged in the actual
38 performance of arson investigation duties or while actually on call to
39 perform arson investigation duties and when specifically authorized by
40 the governing body or the county prosecutor, as the case may be, to
41 carry weapons. Prior to being permitted to carry a firearm, such a
42 member shall take and successfully complete a firearms training course
43 administered by the Police Training Commission pursuant to P.L.1961,
44 c.56 (C.52:17B-66 et seq.), and shall annually qualify in the use of a
45 revolver or similar weapon prior to being permitted to carry a firearm;

46 (9) A juvenile corrections officer in the employment of the Juvenile

1 Justice Commission established pursuant to section 2 of P.L.1995,
2 c.284 (C.52:17B-170) subject to the regulations promulgated by the
3 commission.

4 b. Subsections a., b. and c. of N.J.S.2C:39-5 do not apply to:

5 (1) A law enforcement officer employed by a governmental agency
6 outside of the State of New Jersey while actually engaged in his
7 official duties, provided, however, that he has first notified the
8 superintendent or the chief law enforcement officer of the municipality
9 or the prosecutor of the county in which he is engaged; or

10 (2) A licensed dealer in firearms and his registered employees
11 during the course of their normal business while traveling to and from
12 their place of business and other places for the purpose of
13 demonstration, exhibition or delivery in connection with a sale,
14 provided, however, that the weapon is carried in the manner specified
15 in subsection g. of this section.

16 c. Provided a person complies with the requirements of subsection
17 j. of this section, subsections b. and c. of N.J.S.2C:39-5 do not apply
18 to:

19 (1) A special agent of the Division of Taxation who has passed an
20 examination in an approved police training program testing proficiency
21 in the handling of any firearm which he may be required to carry, while
22 in the actual performance of his official duties and while going to or
23 from his place of duty, or any other police officer, while in the actual
24 performance of his official duties;

25 (2) A State deputy conservation officer or a full-time employee of
26 the Division of Parks and Forestry having the power of arrest and
27 authorized to carry weapons, while in the actual performance of his
28 official duties;

29 (3) (Deleted by amendment, P.L.1986, c.150.)

30 (4) A court attendant serving as such under appointment by the
31 sheriff of the county or by the judge of any municipal court or other
32 court of this State, while in the actual performance of his official
33 duties;

34 (5) A guard in the employ of any railway express company,
35 banking or building and loan or savings and loan institution of this
36 State, while in the actual performance of his official duties;

37 (6) A member of a legally recognized military organization while
38 actually under orders or while going to or from the prescribed place
39 of meeting and carrying the weapons prescribed for drill, exercise or
40 parade;

41 (7) An officer of the Society for the Prevention of Cruelty to
42 Animals, while in the actual performance of his duties;

43 (8) An employee of a public utilities corporation actually engaged
44 in the transportation of explosives;

45 (9) A railway policeman, except a transit police officer of the New
46 Jersey Transit Police Department, at all times while in the State of

1 New Jersey, provided that he has passed an approved police academy
2 training program consisting of at least 280 hours. The training
3 program shall include, but need not be limited to, the handling of
4 firearms, community relations, and juvenile relations;

5 (10) A campus police officer appointed under P.L.1970, c.211
6 (C.18A:6-4.2 et seq.) at all times. Prior to being permitted to carry a
7 firearm, a campus police officer shall take and successfully complete
8 a firearms training course administered by the Police Training
9 Commission, pursuant to P.L.1961, c.56 (C.52:17B-66 et seq.), and
10 shall annually qualify in the use of a revolver or similar weapon prior
11 to being permitted to carry a firearm;

12 (11) A person who has not been convicted of a crime under the
13 laws of this State or under the laws of another state or the United
14 States, and who is employed as a full-time security guard for a nuclear
15 power plant under the license of the Nuclear Regulatory Commission,
16 while in the actual performance of his official duties;

17 (12) A transit police officer of the New Jersey Transit Police
18 Department, at all times while in the State of New Jersey, provided the
19 officer has satisfied the training requirements of the Police Training
20 Commission, pursuant to subsection c. of section 2 of P.L.1989, c.291
21 (C.27:25-15.1);

22 (13) A parole officer employed by the [Bureau of Parole in the
23 Department of Corrections] State Parole Board at all times. Prior to
24 being permitted to carry a firearm, a parole officer shall take and
25 successfully complete a basic course for regular police officer training
26 administered by the Police Training Commission, pursuant to
27 P.L.1961, c.56 (C.52:17B-66 et seq.), and shall annually qualify in the
28 use of a revolver or similar weapon prior to being permitted to carry
29 a firearm;

30 (14) A Human Services police officer at all times while in the State
31 of New Jersey, as authorized by the Commissioner of Human Services;

32 (15) A person or employee of any person who, pursuant to and as
33 required by a contract with a governmental entity, supervises or
34 transports persons charged with or convicted of an offense; or

35 (16) A housing authority police officer appointed under P.L.1997,
36 c.210 (C.40A:14-146.19 et al.) at all times while in the State of New
37 Jersey.

38 d. (1) Subsections c. and d. of N.J.S.2C:39-5 do not apply to
39 antique firearms, provided that such antique firearms are unloaded or
40 are being fired for the purposes of exhibition or demonstration at an
41 authorized target range or in such other manner as has been approved
42 in writing by the chief law enforcement officer of the municipality in
43 which the exhibition or demonstration is held, or if not held on
44 property under the control of a particular municipality, the
45 superintendent.

46 (2) Subsection a. of N.J.S.2C:39-3 and subsection d. of

1 N.J.S.2C:39-5 do not apply to an antique cannon that is capable of
2 being fired but that is unloaded and immobile, provided that the
3 antique cannon is possessed by (a) a scholastic institution, a museum,
4 a municipality, a county or the State, or (b) a person who obtained a
5 firearms purchaser identification card as specified in N.J.S.2C:58-3.

6 (3) Subsection a. of N.J.S.2C:39-3 and subsection d. of
7 N.J.S.2C:39-5 do not apply to an unloaded antique cannon that is
8 being transported by one eligible to possess it, in compliance with
9 regulations the superintendent may promulgate, between its permanent
10 location and place of purchase or repair.

11 (4) Subsection a. of N.J.S.2C:39-3 and subsection d. of
12 N.J.S.2C:39-5 do not apply to antique cannons that are being loaded
13 or fired by one eligible to possess an antique cannon, for purposes of
14 exhibition or demonstration at an authorized target range or in the
15 manner as has been approved in writing by the chief law enforcement
16 officer of the municipality in which the exhibition or demonstration is
17 held, or if not held on property under the control of a particular
18 municipality, the superintendent, provided that performer has given at
19 least 30 days' notice to the superintendent.

20 (5) Subsection a. of N.J.S.2C:39-3 and subsection d. of
21 N.J.S.2C:39-5 do not apply to the transportation of unloaded antique
22 cannons directly to or from exhibitions or demonstrations authorized
23 under paragraph (4) of subsection d. of this section, provided that the
24 transportation is in compliance with safety regulations the
25 superintendent may promulgate. Nor do those subsections apply to
26 transportation directly to or from exhibitions or demonstrations
27 authorized under the law of another jurisdiction, provided that the
28 superintendent has been given 30 days' notice and that the
29 transportation is in compliance with safety regulations the
30 superintendent may promulgate.

31 e. Nothing in subsections b., c. and d. of N.J.S.2C:39-5 shall be
32 construed to prevent a person keeping or carrying about his place of
33 business, residence, premises or other land owned or possessed by
34 him, any firearm, or from carrying the same, in the manner specified
35 in subsection g. of this section, from any place of purchase to his
36 residence or place of business, between his dwelling and his place of
37 business, between one place of business or residence and another when
38 moving, or between his dwelling or place of business and place where
39 such firearms are repaired, for the purpose of repair. For the purposes
40 of this section, a place of business shall be deemed to be a fixed
41 location.

42 f. Nothing in subsections b., c. and d. of N.J.S.2C:39-5 shall be
43 construed to prevent:

44 (1) A member of any rifle or pistol club organized in accordance
45 with the rules prescribed by the National Board for the Promotion of
46 Rifle Practice, in going to or from a place of target practice, carrying

1 such firearms as are necessary for said target practice, provided that
2 the club has filed a copy of its charter with the superintendent and
3 annually submits a list of its members to the superintendent and
4 provided further that the firearms are carried in the manner specified
5 in subsection g. of this section;

6 (2) A person carrying a firearm or knife in the woods or fields or
7 upon the waters of this State for the purpose of hunting, target
8 practice or fishing, provided that the firearm or knife is legal and
9 appropriate for hunting or fishing purposes in this State and he has in
10 his possession a valid hunting license, or, with respect to fresh water
11 fishing, a valid fishing license;

12 (3) A person transporting any firearm or knife while traveling:

13 (a) Directly to or from any place for the purpose of hunting or
14 fishing, provided the person has in his possession a valid hunting or
15 fishing license; or

16 (b) Directly to or from any target range, or other authorized place
17 for the purpose of practice, match, target, trap or skeet shooting
18 exhibitions, provided in all cases that during the course of the travel
19 all firearms are carried in the manner specified in subsection g. of this
20 section and the person has complied with all the provisions and
21 requirements of Title 23 of the Revised Statutes and any amendments
22 thereto and all rules and regulations promulgated thereunder; or

23 (c) In the case of a firearm, directly to or from any exhibition or
24 display of firearms which is sponsored by any law enforcement agency,
25 any rifle or pistol club, or any firearms collectors club, for the purpose
26 of displaying the firearms to the public or to the members of the
27 organization or club, provided, however, that not less than 30 days
28 prior to the exhibition or display, notice of the exhibition or display
29 shall be given to the Superintendent of the State Police by the
30 sponsoring organization or club, and the sponsor has complied with
31 such reasonable safety regulations as the superintendent may
32 promulgate. Any firearms transported pursuant to this section shall be
33 transported in the manner specified in subsection g. of this section;

34 (4) A person from keeping or carrying about a private or
35 commercial aircraft or any boat, or from transporting to or from such
36 vessel for the purpose of installation or repair a visual distress
37 signalling device approved by the United States Coast Guard.

38 g. All weapons being transported under paragraph (2) of
39 subsection b., subsection e., or paragraph (1) or (3) of subsection f. of
40 this section shall be carried unloaded and contained in a closed and
41 fastened case, gunbox, securely tied package, or locked in the trunk of
42 the automobile in which it is being transported, and in the course of
43 travel shall include only such deviations as are reasonably necessary
44 under the circumstances.

45 h. Nothing in subsection d. of N.J.S.2C:39-5 shall be construed
46 to prevent any employee of a public utility, as defined in R.S.48:2-13,

1 doing business in this State or any United States Postal Service
2 employee, while in the actual performance of duties which specifically
3 require regular and frequent visits to private premises, from
4 possessing, carrying or using any device which projects, releases or
5 emits any substance specified as being noninjurious to canines or other
6 animals by the Commissioner of Health and Senior Services and which
7 immobilizes only on a temporary basis and produces only temporary
8 physical discomfort through being vaporized or otherwise dispensed
9 in the air for the sole purpose of repelling canine or other animal
10 attacks.

11 The device shall be used solely to repel only those canine or other
12 animal attacks when the canines or other animals are not restrained in
13 a fashion sufficient to allow the employee to properly perform his
14 duties.

15 Any device used pursuant to this act shall be selected from a list of
16 products, which consist of active and inert ingredients, permitted by
17 the Commissioner of Health and Senior Services.

18 i. Nothing in N.J.S.2C:39-5 shall be construed to prevent any
19 person who is 18 years of age or older and who has not been convicted
20 of a felony, from possession for the purpose of personal self-defense
21 of one pocket-sized device which contains and releases not more than
22 three-quarters of an ounce of chemical substance not ordinarily
23 capable of lethal use or of inflicting serious bodily injury, but rather,
24 is intended to produce temporary physical discomfort or disability
25 through being vaporized or otherwise dispensed in the air. Any person
26 in possession of any device in violation of this subsection shall be
27 deemed and adjudged to be a disorderly person, and upon conviction
28 thereof, shall be punished by a fine of not less than \$100.00.

29 j. A person shall qualify for an exemption from the provisions of
30 N.J.S.2C:39-5, as specified under subsections a. and c. of this section,
31 if the person has satisfactorily completed a firearms training course
32 approved by the Police Training Commission.

33 Such exempt person shall not possess or carry a firearm until the
34 person has satisfactorily completed a firearms training course and shall
35 annually qualify in the use of a revolver or similar weapon. For
36 purposes of this subsection, a "firearms training course" means a
37 course of instruction in the safe use, maintenance and storage of
38 firearms which is approved by the Police Training Commission. The
39 commission shall approve a firearms training course if the
40 requirements of the course are substantially equivalent to the
41 requirements for firearms training provided by police training courses
42 which are certified under section 6 of P.L.1961, c.56 (C.52:17B-71).
43 A person who is specified in paragraph (1), (2), (3) or (6) of
44 subsection a. of this section shall be exempt from the requirements of
45 this subsection.

46 k. Nothing in subsection d. of N.J.S.2C:39-5 shall be construed

1 to prevent any financial institution, or any duly authorized personnel
2 of the institution, from possessing, carrying or using for the protection
3 of money or property, any device which projects, releases or emits tear
4 gas or other substances intended to produce temporary physical
5 discomfort or temporary identification.

6 1. Nothing in subsection b. of N.J.S.2C:39-5 shall be construed
7 to prevent a law enforcement officer who retired in good standing,
8 including a retirement because of a disability pursuant to section 6 of
9 P.L.1944, c.255 (C.43:16A-6), section 7 of P.L.1944, c.255
10 (C.43:16A-7), section 1 of P.L.1989, c.103 (C.43:16A-6.1) or any
11 substantially similar statute governing the disability retirement of
12 federal law enforcement officers, provided the officer was a regularly
13 employed, full-time law enforcement officer for an aggregate of five
14 or more years prior to his disability retirement and further provided
15 that the disability which constituted the basis for the officer's
16 retirement did not involve a certification that the officer was mentally
17 incapacitated for the performance of his usual law enforcement duties
18 and any other available duty in the department which his employer was
19 willing to assign to him or does not subject that retired officer to any
20 of the disabilities set forth in subsection c. of N.J.S.2C:58-3 which
21 would disqualify the retired officer from possessing or carrying a
22 firearm, who semi-annually qualifies in the use of the handgun he is
23 permitted to carry in accordance with the requirements and procedures
24 established by the Attorney General pursuant to subsection j. of this
25 section and pays the actual costs associated with those semi-annual
26 qualifications, who is less than 70 years of age, and who was regularly
27 employed as a full-time member of the State Police; a full-time
28 member of an interstate police force; a full-time member of a county
29 or municipal police department in this State; a full-time member of a
30 State law enforcement agency; a full-time sheriff, undersheriff or
31 sheriff's officer of a county of this State; a full-time State or county
32 corrections officer; a full-time county park police officer; a full-time
33 county prosecutor's detective or investigator; or a full-time federal law
34 enforcement officer from carrying a handgun in the same manner as
35 law enforcement officers exempted under paragraph (7) of subsection
36 a. of this section under the conditions provided herein:

37 (1) The retired law enforcement officer, within six months after
38 retirement, shall make application in writing to the Superintendent of
39 State Police for approval to carry a handgun for one year. An
40 application for annual renewal shall be submitted in the same manner.

41 (2) Upon receipt of the written application of the retired law
42 enforcement officer, the superintendent shall request a verification of
43 service from the chief law enforcement officer of the organization in
44 which the retired officer was last regularly employed as a full-time law
45 enforcement officer prior to retiring. The verification of service shall
46 include:

- 1 (a) The name and address of the retired officer;
- 2 (b) The date that the retired officer was hired and the date that the
3 officer retired;
- 4 (c) A list of all handguns known to be registered to that officer;
- 5 (d) A statement that, to the reasonable knowledge of the chief law
6 enforcement officer, the retired officer is not subject to any of the
7 restrictions set forth in subsection c. of N.J.S.2C:58-3; and
- 8 (e) A statement that the officer retired in good standing.
- 9 (3) If the superintendent approves a retired officer's application or
10 reapplication to carry a handgun pursuant to the provisions of this
11 subsection, the superintendent shall notify in writing the chief law
12 enforcement officer of the municipality wherein that retired officer
13 resides. In the event the retired officer resides in a municipality which
14 has no chief law enforcement officer or law enforcement agency, the
15 superintendent shall maintain a record of the approval.
- 16 (4) The superintendent shall issue to an approved retired officer an
17 identification card permitting the retired officer to carry a handgun
18 pursuant to this subsection. This identification card shall be valid for
19 one year from the date of issuance and shall be valid throughout the
20 State. The identification card shall not be transferable to any other
21 person. The identification card shall be carried at all times on the
22 person of the retired officer while the retired officer is carrying a
23 handgun. The retired officer shall produce the identification card for
24 review on the demand of any law enforcement officer or authority.
- 25 (5) Any person aggrieved by the denial of the superintendent of
26 approval for a permit to carry a handgun pursuant to this subsection
27 may request a hearing in the Superior Court of New Jersey in the
28 county in which he resides by filing a written request for such a
29 hearing within 30 days of the denial. Copies of the request shall be
30 served upon the superintendent and the county prosecutor. The
31 hearing shall be held within 30 days of the filing of the request, and no
32 formal pleading or filing fee shall be required. Appeals from the
33 determination of such a hearing shall be in accordance with law and
34 the rules governing the courts of this State.
- 35 (6) A judge of the Superior Court may revoke a retired officer's
36 privilege to carry a handgun pursuant to this subsection for good cause
37 shown on the application of any interested person. A person who
38 becomes subject to any of the disabilities set forth in subsection c. of
39 N.J.S.2C:58-3 shall surrender, as prescribed by the superintendent, his
40 identification card issued under paragraph (4) of this subsection to the
41 chief law enforcement officer of the municipality wherein he resides or
42 the superintendent, and shall be permanently disqualified to carry a
43 handgun under this subsection.
- 44 (7) The superintendent may charge a reasonable application fee to
45 retired officers to offset any costs associated with administering the
46 application process set forth in this subsection.

1 m. Nothing in subsection d. of N.J.S.2C:39-5 shall be construed
2 to prevent duly authorized personnel of the New Jersey Division of
3 Fish, Game and Wildlife, while in the actual performance of duties,
4 from possessing, transporting or using any device that projects,
5 releases or emits any substance specified as being non-injurious to
6 wildlife by the Director of the Division of Animal Health in the
7 Department of Agriculture, and which may immobilize wildlife and
8 produces only temporary physical discomfort through being vaporized
9 or otherwise dispensed in the air for the purpose of repelling bear or
10 other animal attacks or for the aversive conditioning of wildlife.

11 n. Nothing in subsection b., c., d. or e. of N.J.S.2C:39-5 shall be
12 construed to prevent duly authorized personnel of the New Jersey
13 Division of Fish, Game and Wildlife, while in the actual performance
14 of duties, from possessing, transporting or using hand held pistol-like
15 devices, rifles or shotguns that launch pyrotechnic missiles for the sole
16 purpose of frightening, hazing or aversive conditioning of nuisance or
17 depredating wildlife; from possessing, transporting or using rifles,
18 pistols or similar devices for the sole purpose of chemically
19 immobilizing wild or non-domestic animals; or, provided the duly
20 authorized person complies with the requirements of subsection j. of
21 this section, from possessing, transporting or using rifles or shotguns,
22 upon completion of a Police Training Commission approved training
23 course, in order to dispatch injured or dangerous animals or for
24 non-lethal use for the purpose of frightening, hazing or aversive
25 conditioning of nuisance or depredating wildlife.

26 (cf: P.L.1997, c.393, s.1)

27

28 16. Section 2 of P.L.1997, c.117 (C.2C:43-7.2) is amended to read
29 as follows:

30 2. a. A court imposing a sentence of incarceration for a crime of
31 the first or second degree shall fix a minimum term of 85% of the
32 sentence during which the defendant shall not be eligible for parole if
33 the crime is a violent crime as defined in subsection d. of this section.

34 b. The provisions of subsection a. of this section shall not be
35 construed or applied to reduce the time that must be served before
36 eligibility for parole by an inmate sentenced to a mandatory minimum
37 period of incarceration.

38 c. Notwithstanding any other provision of law to the contrary and
39 in addition to any other sentence imposed, a court imposing a
40 minimum period of parole ineligibility of 85 percent of the sentence
41 pursuant to this section shall also, unless the court imposes a sentence
42 of lifetime parole supervision pursuant to P.L. , c. (C.)(now
43 pending before the Legislature as Senate Bill No. 524 SCS), impose
44 a five-year term of parole supervision if the defendant is being
45 sentenced for a crime of the first degree, or a three-year term of parole
46 supervision if the defendant is being sentenced for a crime of the

1 second degree. The term of parole supervision shall commence upon
2 the completion of the sentence of incarceration imposed by the court
3 pursuant to subsection a. of this section unless the defendant is serving
4 a sentence of incarceration for another crime at the time he completes
5 the sentence of incarceration imposed pursuant to subsection a., in
6 which case the term of parole supervision shall commence immediately
7 upon the defendant's release from incarceration. During the term of
8 parole supervision the defendant shall remain in release status in the
9 community in the legal custody of the Commissioner of the
10 Department of Corrections and shall be supervised by the [Bureau of
11 Parole of the Department of Corrections] State Parole Board as if on
12 parole and shall be subject to the provisions and conditions of section
13 3 of P.L.1997, c.117 (C.30:4-123.51b).

14 d. For the purposes of this section, "violent crime" means any
15 crime in which the actor causes death, causes serious bodily injury as
16 defined in subsection b. of N.J.S.2C:11-1, or uses or threatens the
17 immediate use of a deadly weapon. "Violent crime" also includes any
18 aggravated sexual assault or sexual assault in which the actor uses, or
19 threatens the immediate use of, physical force.

20 For the purposes of this section, "deadly weapon" means any
21 firearm or other weapon, device, instrument, material or substance,
22 whether animate or inanimate, which in the manner it is used or is
23 intended to be used, is known to be capable of producing death or
24 serious bodily injury.

25 e. A court shall not impose sentence pursuant to this section unless
26 the ground therefor has been established at a hearing after the
27 conviction of the defendant and on written notice to him of the ground
28 proposed. The defendant shall have the right to hear and controvert
29 the evidence against him and to offer evidence upon the issue.

30 (cf: P.L.1997, c.117, s.1).

31

32 17. This act shall take effect immediately .

33

34

35

STATEMENT

36

37 Presently, two agencies have the responsibility for parole: the State
38 Parole Board and the Bureau of Parole. The State Parole Board,
39 which operates as an autonomous agency, determines when an inmate
40 who is eligible for parole may be safely released. The Bureau of
41 Parole, which is in the Department of Corrections, is charged with the
42 responsibility of supervising an inmate once that inmate is released.

43 This bill would transfer the Bureau of Parole to the State Parole
44 Board consolidating the two agencies under one direct authority. This
45 bill attempts to address the current problems in the system which
46 results in a lack of coordination between the two agencies especially

1 with regard to notification of the appropriate authorities when an
2 inmate is scheduled for release. Under the provisions of the bill the
3 State Parole Board would be charged with the responsibilities of
4 notifying the prosecutor when an inmate is scheduled to be released.

5 In addition, this bill would allow the Commissioner of Corrections
6 to serve as both the Commissioner of Corrections and the Chairman
7 of the State Parole Board but to receive only the salary of the
8 Commissioner of Corrections.

SENATE JUDICIARY COMMITTEE

STATEMENT TO

SENATE, No. 2026

with committee amendments

STATE OF NEW JERSEY

DATED: FEBRUARY 8, 2001

The Senate Judiciary Committee reports favorably and with committee amendments Senate Bill No. 2026.

Presently, two agencies have the responsibility for parole: the State Parole Board and the Bureau of Parole. The State Parole Board, which operates as an autonomous agency, determines when an inmate who is eligible for parole may be safely released. The Bureau of Parole, which is in the Department of Corrections, is charged with the responsibility of supervising an inmate once that inmate is released.

This bill would transfer the Bureau of Parole to the State Parole Board consolidating the two agencies under one direct authority. S-2026 attempts to address the current problems in the system which results in a lack of coordination between the two agencies especially with regard to notification of the appropriate authorities when an inmate is scheduled for release. Under the provisions of this bill, the State Parole Board would be charged with the responsibilities of notifying the prosecutor when an inmate is scheduled to be released.

The committee amendments deleted a provision which would have allowed a person to serve as both Commissioner of Corrections and Chairman of the State Parole Board. The amendments also clarified that any sworn member of the Division of Parole is eligible to act as Director of Parole Supervision. The amendments also deleted unnecessary language in section 15.

[First Reprint]

SENATE, No. 2026

STATE OF NEW JERSEY
209th LEGISLATURE

INTRODUCED JANUARY 9, 2001

Sponsored by:

Senator WILLIAM L. GORMLEY

District 2 (Atlantic)

Senator JOHN J. MATHEUSSEN

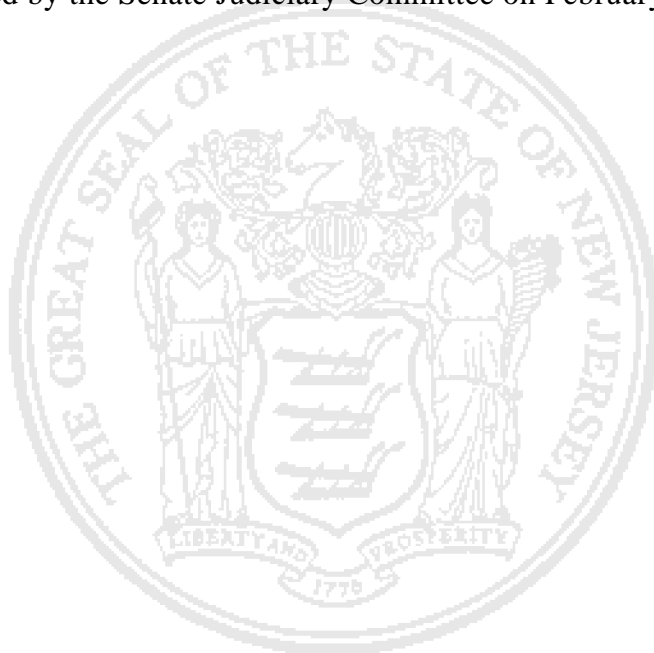
District 4 (Camden and Gloucester)

SYNOPSIS

Transfers the Bureau of Parole in the Department of Corrections to the State Parole Board.

CURRENT VERSION OF TEXT

As reported by the Senate Judiciary Committee on February 8, 2001, with amendments.



1 AN ACT concerning parole and revising various parts of the statutory
2 law.

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

6
7 1. (New section) a. All functions, powers and duties of the
8 existing Bureau of Parole in the Department of Corrections are hereby
9 transferred to the State Parole Board.

10 b. All files, books, papers, records, equipment and other property
11 of the Bureau of Parole in the Department of Corrections shall be
12 transferred to the State Parole Board.

13 c. All appropriations and other moneys available and to become
14 available to the Bureau of Parole in the Department of Corrections,
15 the functions, powers and duties of which have been assigned or
16 transferred herein, are hereby transferred to the State Parole Board
17 and shall be available for the objects and purposes for which
18 appropriated, subject to any terms, restrictions, limitations or other
19 requirements imposed by State or Federal law.

20 d. The employees of the Bureau of Parole in the Department of
21 Corrections are hereby transferred to the State Parole Board.

22 e. Nothing in P.L. c, (C.)(now pending before the
23 Legislature as this bill) shall be construed to deprive any person of any
24 tenure rights or of any right or protection provided him by Title 11 of
25 the Revised Statutes, Civil Service, or under any pension law or
26 retirement system.

27 f. P.L. c, (C.)(now pending before the Legislature as this
28 bill) shall not affect actions or proceedings, civil or criminal, brought
29 by or against the Bureau of Parole in the Department of Corrections,
30 the functions, powers and duties of which have been herein assigned
31 or transferred to the State Parole Board.

32
33 2. Section 1 of P.L.1979, c. 441 (C. 30:4-123.45) is amended to
34 read as follows:

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

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

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

40 (2) "Juvenile inmate" means any person under commitment as a
41 juvenile delinquent pursuant to section 25 of P.L.1982, c.77
42 (C.2A:4A-44).

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 8, 2001.

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

4 (4) "Primary parole eligibility date" means that date established for
5 parole eligibility for adult inmates pursuant to section 7 or 20 of this
6 act.

7 (5) "Public notice" shall consist of lists including names of all
8 inmates being considered for parole, the county from which he was
9 committed and the crime for which he was incarcerated. At least 30
10 days prior to parole consideration such lists shall be forwarded to the
11 prosecutor's office of each county, the sentencing court, the office of
12 the Attorney General, any other criminal justice agencies whose
13 information and comment may be relevant, and news organizations.

14 (6) Removal for "cause" means such substantial cause as is plainly
15 sufficient under the law and sound public policy touching upon
16 qualifications appropriate to a member of the parole board or the
17 administration of said board such that the public interest precludes the
18 member's continuance in office. Such cause includes, but is not limited
19 to, misconduct in office, incapacity, inefficiency and nonfeasance.

20 (7) "Commission" means the Juvenile Justice Commission
21 established pursuant to section 2 of P.L.1995, c.284 (C.52:17B-170).

22 (8) "Parole officer" means, with respect to an adult inmate, an
23 officer assigned by the [Bureau of Parole] Chairman of the State
24 Parole Board or his designee and, with respect to a juvenile inmate, a
25 person assigned by the commission.

26 (cf: P.L.1995, c.280, s.34).

27
28 3. Section 1 of P.L.1997, c.215 (C.30:4-123.47a) is amended to
29 read as follows:

30 1. There is hereby established a Parole Advisory Board in, but not
31 of, the [Bureau of Parole] State Parole Board. Notwithstanding the
32 allocation of the board within the [bureau] State Parole Board, the
33 [bureau] State Parole Board or any employee thereof shall not
34 exercise any control over the [board] Parole Advisory Board. The
35 advisory board shall consist of 23 members. It shall include in its
36 membership the [Chief of the Bureau of Parole in the Department of
37 Corrections] Chairman of the State Parole Board or his designee, who
38 shall serve ex officio; one member representing each of the following
39 organizations and groups, who shall be appointed by the Governor:
40 [the State Parole Board,] the Department of Corrections, the
41 Department of Health and Senior Services, the Department of Law and
42 Public Safety, Office of the Governor, the Administrative Office of the
43 Courts, the Victims of Crime Compensation Board, the New Jersey
44 Chapter of the American Correctional Association, the County
45 Prosecutors Association of New Jersey, the Sheriffs' Association of
46 New Jersey, the New Jersey Wardens Association, the New Jersey

1 State Association of Chiefs of Police, the American Parole and
2 Probation Association, Governor's Council on Alcoholism and Drug
3 Abuse, the community at large, treatment providers, victims' rights
4 groups and former inmates who have successfully completed parole.
5 Two members of the Senate, who shall not be of the same political
6 party and who shall serve during their terms of office, shall be
7 appointed by the President of the Senate. Two members of the
8 General Assembly, who shall not be of the same political party and
9 who shall serve during their terms of office, shall be appointed by the
10 Speaker of the General Assembly.

11 Members of the advisory board shall be appointed with the advice
12 and consent of the Senate, and serve a term of three years, except for
13 the initial gubernatorial appointees, six of whom shall serve for two
14 years and six of whom shall serve for four years. Each member shall
15 serve for the term of appointment and until a successor is appointed.
16 A member may be reappointed to the advisory board. A member
17 appointed to fill a vacancy occurring in the membership of the advisory
18 board for any reason other than the expiration of the term shall serve
19 a term of appointment for the unexpired term only. All vacancies shall
20 be filled in the same manner as the original appointments. Any
21 appointed member of the advisory board, except the legislative
22 members, may be removed from the advisory board by the Governor,
23 for cause, after a hearing, and may be suspended by the Governor
24 pending the completion of the hearing. Legislative members may be
25 removed for cause by the leader of their respective houses. Motions
26 and resolutions may be adopted by the advisory board at a board
27 meeting by an affirmative vote of not less than 12 members.

28 Members of the advisory board shall serve without compensation
29 but shall be entitled to reimbursement for actual expenses of serving
30 on the board, to the extent that funds are available for this purpose.

31 The advisory board shall organize as soon as possible after the
32 appointment of its members. The members shall select a chair from
33 among their number.

34 (cf: P.L.1997, c.215, s.1).

35

36 4. Section 2 of P.L.1997, c.215 (C.30:4-123.47b.) is amended to
37 read as follows:

38 2. It shall be the duty of the advisory board to review and comment
39 on supervision issues, the development and implementation of drug
40 and alcohol treatment programs for parolees, and any other issues as
41 requested by the **[Commissioner of Corrections] State Parole Board**,
42 taking into consideration all relevant research **[conducted by the**
43 **Bureau of Parole]**. The advisory board shall sponsor conferences
44 with criminal justice administrators and community members, including
45 treatment providers, in order to educate all interested parties in the
46 importance of relapse prevention and treatment for specialized cases,

1 and to address issues such as lowering costs, developing protocols for
2 confidentiality, identifying the type and amount of treatment that
3 should be available, and promoting community involvement in the
4 reintegration process. The advisory board may make
5 recommendations to the Commissioner of Corrections, the Chairman
6 of the State Parole Board, the Legislature and the Governor in these
7 matters.

8 The advisory board shall meet at least semiannually and may hold
9 hearings at any place or places it shall designate during the sessions or
10 recesses of the Legislature. The [Bureau of Parole] State Parole
11 Board shall have primary responsibility for providing staff services and
12 other necessary support to the board. The advisory board may also
13 request the assistance and services of the employees of any State,
14 county or municipal department, board, bureau, commission, task
15 force or agency as it may require and as may be available to it for its
16 purposes. The advisory board may, within the limits of funds
17 appropriated or otherwise made available to it for its purposes, employ
18 stenographic and clerical assistants and incur travel and miscellaneous
19 expenses necessary for the performance of its duties.

20 (cf: P.L.1997, c.215, s.2).

21

22 5. Section 4 of P.L.1979, c.441 (C.30:4-123.48) is amended to
23 read as follows:

24 4. a. All policies and determinations of the Parole Board shall be
25 made by the majority vote of the members.

26 b. Except where otherwise noted, parole determinations on
27 individual cases pursuant to this act shall be made by the majority vote
28 of a quorum of the appropriate board panel established pursuant to this
29 section.

30 c. The chairman of the board shall be the chief executive officer of
31 the board and, after consulting with the board, shall be responsible for
32 designating the time and place of all board meetings, for appointing the
33 board's employees, for organizing, controlling and directing the work
34 of the board and its employees, and for preparation and justification of
35 the board's budget. The nonsecretarial professional and supervisory
36 employees of the board such as, but not limited to, hearing officers,
37 shall serve at the pleasure of the chairman and shall not be subject to
38 the provisions of Title 11 of the Revised Statutes. [Nothing contained
39 herein shall be deemed to affect the employees of the Department of
40 Corrections, such as parole officers assigned to supervise parolees]
41 Parole officers assigned to supervise parolees and all supervisory titles
42 associated with the supervision of parolees in the parole officer series
43 shall be classified employees subject to the provisions of Title 11 of
44 the Revised Statutes. Parole officers assigned to supervise parolees
45 and all supervisory titles associated with the supervision of parolees in
46 the parole officer job classification series shall be organizationally

1 assigned to the State Parole Board with a¹ [designee promoted
2 through the ranks of the parole officer job classification series to act
3 as director of parole supervision] sworn member of the Division of
4 Parole appointed to act as director of parole supervision¹. The
5 director of parole supervision shall report directly to the Chairman of
6 the State Parole Board.

7 d. The board shall promulgate such reasonable rules and
8 regulations, consistent with this act, as may be necessary for the
9 proper discharge of its responsibilities. The chairman shall file such
10 rules and regulations with the Secretary of State. The provisions of
11 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
12 seq.) shall apply to the promulgation of rules and regulations
13 concerning policy and administration, but not to other actions taken
14 under this act, such as parole hearings, parole revocation hearings and
15 review of parole cases. In determination of its rules and regulations
16 concerning policy and administration, the board shall consult the
17 Governor, the Commissioner of Corrections and the Juvenile Justice
18 Commission established pursuant to section 2 of P.L.1995, c.284
19 (C.52:17B-170).

20 e. The board, in conjunction with the Department of Corrections
21 and the Juvenile Justice Commission, shall develop a uniform
22 information system in order to closely monitor the parole process.
23 Such system shall include participation in the Uniform Parole Reports
24 of the National Council on Crime and Delinquency.

25 f. The board shall transmit a report of its work for the preceding
26 fiscal year, including information on the causes and extent of parole
27 recidivism, to the Governor, the Legislature and the Juvenile Justice
28 Commission annually.

29 g. The board shall give public notice prior to considering any adult
30 inmate for release.

31 h. The board shall give notice to the appropriate prosecutor's office
32 and to the committing court prior to the initial consideration of any
33 juvenile inmate for release.

34 (cf: P.L.1995, c.280, s.35).

35

36 6. Section 3 of P.L.1997, c.117 (C.30:4-123.51b.) is amended to
37 read as follows:

38 3. a. A person who has been sentenced to a term of parole
39 supervision and is on release status in the community pursuant to
40 section 2 of P.L.1997, c.117 (C.2C:43-7.2) shall, during the term of
41 parole supervision, remain on release status in the community, in the
42 legal custody of the Commissioner of the Department of Corrections,
43 and shall be supervised by the [Bureau of Parole of the Department
44 of Corrections] parole officers in the State Parole Board as if on
45 parole, and shall be subject to the provisions and conditions set by the
46 appropriate board panel. The appropriate board panel shall have the

1 authority, in accordance with the procedures and standards set forth
2 in sections 15 through 21 of P.L.1979, c.441 (C.30:4-123.59 through
3 30:4-123.65), to revoke the person's release status and return the
4 person to custody for the remainder of the term or until it is
5 determined, in accordance with regulations adopted by the board, that
6 the person is again eligible for release consideration pursuant to
7 section 9 of P.L.1979, c.441 (C.30:4-123.53).

8 b. The Parole Board shall promulgate rules and regulations
9 necessary to carry out the purposes of this act pursuant to the
10 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
11 seq.).
12 (cf: P.L.1997, c.117, s.3).

13
14 7. Section 1 of P.L.1997, c.214 (C.30:4-123.51c) is amended to
15 read as follows:

16 1. a. (1) For the purpose of this section, "terminal condition,
17 disease or syndrome" means a prognosis by the licensed physicians
18 designated by the Commissioner of Corrections pursuant to subsection
19 b. of this section that an inmate has six months or less to live.

20 (2) Except as otherwise provided in paragraph (3) of this
21 subsection, the appropriate board panel may release on medical parole
22 any inmate serving any sentence of imprisonment who has been
23 diagnosed pursuant to subsection b. of this section as suffering from
24 a terminal condition, disease or syndrome and is found by the
25 appropriate board panel to be so debilitated or incapacitated by the
26 terminal condition, disease or syndrome as to be permanently
27 physically incapable of committing a crime if released on parole.
28 Notwithstanding any provision of P.L.1979, c.441 (C.30:4-123.45 et
29 seq.) to the contrary, the appropriate board panel may release any such
30 inmate at any time during the term of the sentence. An inmate placed
31 on parole pursuant to this section shall be subject to custody,
32 supervision and conditions as provided in section 15 of P.L.1979,
33 c.441 [(C.30:3-123.59)] (C.30:4-123.59) and shall be subject to
34 sanctions for a violation of a condition of parole as provided in
35 sections 16 through 21 of P.L.1979, c.441 (C.30:4-123.60 through
36 30:4-123.65).

37 (3) No inmate serving any sentence for a violation of
38 N.J.S.2C:11-3; N.J.S.2C:11-4; N.J.S.2C:13-1; subsection a. of
39 N.J.S.2C:14-2; N.J.S.2C:15-1 in which the inmate, while in the course
40 of committing the theft, attempted to kill another, or purposely
41 inflicted or attempted to inflict serious bodily injury, or was armed
42 with or used or threatened the immediate use of a deadly weapon;
43 subsection a. of N.J.S.2C:17-1; or N.J.S.2C:24-4 or an attempt to
44 commit any of these offenses shall be eligible for the medical parole
45 authorized under paragraph (2) of this section.

46 b. A medical diagnosis that an inmate is suffering from a terminal

1 condition, disease or syndrome shall be made by two licensed
2 physicians designated by the Commissioner of Corrections. The
3 diagnosis shall include, but not be limited to:

4 (1) a description of the terminal condition, disease or syndrome;

5 (2) a prognosis concerning the likelihood of recovery from the
6 terminal condition, disease or syndrome;

7 (3) a description of the inmate's physical incapacity; and

8 (4) a description of the type of ongoing treatment that would be
9 required if the inmate were released on medical parole.

10 c. A request for a medical diagnosis to determine whether an
11 inmate is eligible for a medical parole under this section may be
12 submitted to the appropriate board panel by the Commissioner of
13 Corrections, the administrator or superintendent of a correctional
14 facility; the inmate; a member of the inmate's family or the inmate's
15 attorney. The request shall be submitted in a manner and form
16 prescribed by the board.

17 d. At least five working days prior to commencing its review of a
18 request for a medical parole, the appropriate board panel shall notify
19 the appropriate sentencing court; county prosecutor or, if the matter
20 was prosecuted by the Attorney General, the Attorney General; and
21 any victim or member of the family of a victim entitled to notice
22 relating to a parole or the consideration of a parole under the
23 provisions of P.L.1979, c.441 (C.30:4-123.45 et seq.). The notice
24 shall be given in the manner prescribed by the board and shall contain
25 all such information and documentation relating to the medical
26 diagnosis prepared pursuant to subsection b. of this section as the
27 board shall deem appropriate and necessary.

28 Upon receipt of the notice, the sentencing court; county prosecutor
29 or Attorney General, as the case may be; the victim or member of the
30 family of the victim, as the case may be, shall have 10 working days
31 to review the notice and submit comments to the appropriate board
32 panel. If a recipient of the notice does not submit comments within
33 that 10-day period following the receipt of the notice, the panel may
34 presume that the recipient does not wish to submit comments and
35 proceed with its consideration of the request for medical parole. Any
36 comments provided by a recipient shall be delivered to the appropriate
37 board panel in the same manner or by the same method as notice was
38 given by the panel to that recipient.

39 The information contained in any notice given by a panel pursuant
40 to this subsection and the contents of any comments submitted by a
41 recipient in response thereto shall be confidential and shall not be
42 disclosed to any person who is not authorized to receive or review that
43 information or those comments.

44 Notice given under the provisions of this subsection shall be in lieu
45 of any other notice of parole consideration required under P.L.1979,
46 c.441 (C.30:4-123.45 et seq.).

1 Nothing in this subsection shall be construed to impair any party's
2 right to be heard pursuant to P.L.1979, c.441 (C.30:4-123.45 et seq.).

3 e. The appropriate board panel shall conduct its review of a request
4 for medical parole as expeditiously as possible.

5 The appropriate board panel shall provide written notice of its
6 decision to the sentencing court; the county prosecutor or Attorney
7 General, as the case may be; and any victim or member of a victim's
8 family given notice pursuant to subsection d. of this section.

9 f. Whenever an inmate is granted medical parole pursuant to this
10 section, the appropriate board shall require, as a condition precedent
11 to release, that the inmate's release plan include:

12 (1) identification of a community sponsor;

13 (2) verification of the availability of appropriate medical services
14 sufficient to meet the treatment requirements identified pursuant to
15 paragraph (4) of subsection b. of this section; and

16 (3) verification of appropriate housing which may include, but need
17 not be limited to, a hospital, hospice, nursing home facility or other
18 housing accommodation suitable to the inmate's medical condition,
19 disease or syndrome.

20 g. In addition to any conditions imposed pursuant to section 15 of
21 P.L.1979, c.441 (C.30:4-123.59), as a condition of release on medical
22 parole, the appropriate board panel may require an inmate to submit
23 to periodic medical diagnoses by a licensed physician.

24 h. If, after review of a medical diagnosis required under the
25 provisions of subsection g. of this section, the appropriate board panel
26 determines that a parolee released on medical parole is no longer so
27 debilitated or incapacitated by a terminal condition, disease or
28 syndrome as to be physically incapable of committing a crime, the
29 parolee shall be returned to confinement in an appropriate facility
30 designated by the Commissioner of Corrections.

31 A decision to return the parolee to confinement pursuant to this
32 subsection shall be rendered only after a hearing by the appropriate
33 board panel or by a hearing officer designated by the chairman of the
34 board. Nothing in this subsection shall be construed to limit the
35 authority of the board, an appropriate board panel or [any] parole
36 officer of the State Parole Board to address a violation of a condition
37 of parole pursuant to sections 16 through 21 of P.L.1979, c.441
38 (C.30:4-123.60 through 30:4-123.65).

39 i. The denial of a request for medical parole or the return of a
40 parolee to confinement under the provisions of subsection h. of this
41 section shall not preclude that inmate from being considered for parole
42 pursuant to subsection a. of section 7 of P.L.1979, c.441
43 (C.30:4-123.51).

44 (cf: P.L.1997, c.214, s.1).

45

46 8. Section 1 of P.L.1994, c.135 (C.30:4-123.53a.) is amended to
47 read as follows:

1 1. a. As used in this act: "Prosecutor" means the county
2 prosecutor of the county in which the defendant was convicted unless
3 the matter was prosecuted by the Attorney General, in which case
4 "prosecutor" means the Attorney General.

5 "Office of Victim Witness Advocacy" means the Office of Victim
6 Witness Advocacy of the county in which the defendant was
7 convicted.

8 b. Notwithstanding any other provision of law to the contrary, the
9 **[Department of Corrections] State Parole Board** shall provide written
10 notice to the prosecutor of the anticipated release from incarceration
11 in a county or State penal institution or the Adult Diagnostic and
12 Treatment Center of a person convicted of murder; manslaughter;
13 aggravated sexual assault; sexual assault; aggravated assault;
14 aggravated criminal sexual contact; kidnapping pursuant to paragraph
15 (2) of subsection c. of N.J.S.2C:13-1; endangering the welfare of a
16 child by engaging in sexual conduct which would impair or debauch
17 the morals of the child pursuant to subsection a. of N.J.S.2C:24-4;
18 endangering the welfare of a child pursuant to paragraph (4) of
19 subsection b. of N.J.S.2C:24-4; luring or enticing pursuant to section
20 1 of P.L.1993, c.291 (C.2C:13-6); any other offense involving serious
21 bodily injury or an attempt to commit any of the aforementioned
22 offenses.

23 c. Notwithstanding any other provision of law to the contrary, the
24 Juvenile Justice Commission established pursuant to section 2 of
25 P.L.1995, c.284 (C.52:17B-170) shall provide written notice to the
26 prosecutor of the anticipated release from incarceration of a juvenile
27 adjudicated delinquent on the basis of an offense which, if committed
28 by an adult, would constitute murder; manslaughter; aggravated sexual
29 assault; sexual assault; aggravated assault; aggravated criminal sexual
30 contact; kidnapping pursuant to paragraph (2) of subsection c. of
31 N.J.S.2C:13-1; endangering the welfare of a child by engaging in
32 sexual conduct which would impair or debauch the morals of the child
33 pursuant to subsection a. of N.J.S.2C:24-4; endangering the welfare
34 of a child pursuant to paragraph (4) of subsection b. of N.J.S.2C:24-4;
35 luring or enticing pursuant to section 1 of P.L.1993, c.291
36 (C.2C:13-6); any other offense involving serious bodily injury or an
37 attempt to commit any of the aforementioned offenses.

38 d. If available, the notice shall be provided to the prosecutor 90
39 days before the inmate's anticipated release; provided however, the
40 notice shall be provided at least 30 days before release. The notice
41 shall include the person's name, identifying factors, offense history,
42 and anticipated future residence. The prosecutor shall notify the
43 Office of Victim and Witness Advocacy and that office shall use any
44 reasonable means available to them to notify the victim of the
45 anticipated release unless the victim has requested not to be notified.

46 e. Upon receipt of notice, the prosecutor shall provide notice to the

1 law enforcement agency responsible for the municipality where the
2 inmate will reside, the municipality in which any victim resides, and
3 such other State and local law enforcement agencies as appropriate for
4 public safety.
5 (cf: P.L.1995, c.280, s.37).

6

7 9. Section 15 of P.L.1979, c.441 (C.30:4-123.59) is amended to
8 read as follows:

9 15. a. Each adult parolee shall at all times remain in the legal
10 custody of the Commissioner of Corrections and under the supervision
11 of the State Parole Board and each juvenile parolee shall at all times
12 remain in the legal custody of the Juvenile Justice Commission
13 established pursuant to section 2 of P.L.1995, c.284 (C.52:17B-170)
14 and under the supervision of the State Parole Board , except that the
15 Commissioner of Corrections or the Executive Director of the Juvenile
16 Justice Commission, after providing notice to the Attorney General,
17 may consent to the supervision of a parolee by the federal government
18 pursuant to the Witness Security Reform Act, Pub.L.98-473 (18
19 U.S.C. s.3251 et seq.). A parolee, except those under the Witness
20 Security Reform Act, shall remain under the supervision of the
21 **[Bureau of Parole]** State Parole Board and in the legal custody of the
22 Department of Corrections or the Juvenile Justice Commission, as
23 appropriate, in accordance with the policies and rules of the board.

24 b. Each parolee shall agree, as evidenced by his signature to abide
25 by specific conditions of parole established by the appropriate board
26 panel which shall be enumerated in writing in a certificate of parole
27 and shall be given to the parolee upon release. Such conditions shall
28 include, among other things, a requirement that the parolee conduct
29 himself in society in compliance with all laws and refrain from
30 committing any crime, a requirement that the parolee will not own or
31 possess any firearm as defined in subsection f. of N.J.S.2C:39-1 or any
32 other weapon enumerated in subsection r. of N.J.S.2C:39-1, a
33 requirement that the parolee refrain from the use, possession or
34 distribution of a controlled dangerous substance, controlled substance
35 analog or imitation controlled dangerous substance as defined in
36 N.J.S.2C:35-2 and N.J.S.2C:35-11, a requirement that the parolee
37 obtain permission from his parole officer for any change in his
38 residence, and a requirement that the parolee report at reasonable
39 intervals to an assigned parole officer. In addition, based on prior
40 history of the parolee or information provided by a victim or a member
41 of the family of a murder victim, the member or board panel certifying
42 parole release pursuant to section 11 of P.L.1979, c.441
43 (C.30:4-123.55) may impose any other specific conditions of parole
44 deemed reasonable in order to reduce the likelihood of recurrence of
45 criminal or delinquent behavior. Such special conditions may include,
46 among other things, a requirement that the parolee make full or partial

1 restitution, the amount of which restitution shall be set by the
2 sentencing court upon request of the board. In addition, the member
3 or board panel certifying parole release may, giving due regard to a
4 victim's request, impose a special condition that the parolee have no
5 contact with the victim, which special condition may include, but need
6 not be limited to, restraining the parolee from entering the victim's
7 residence, place of employment, business or school, and from
8 harassing or stalking the victim or victim's relatives in any way.

9 c. The appropriate board panel may in writing relieve a parolee of
10 any parole conditions, and may permit a parolee to reside outside the
11 State pursuant to the provisions of the Uniform Act for Out-of-State
12 Parolee Supervision (N.J.S.2A:168-14 et seq.), the Interstate Compact
13 on Juveniles, P.L.1955, c.55 (C.9:23-1 to 9:23-4), and, with the
14 consent of the Commissioner of the Department of Corrections or the
15 Executive Director of the Juvenile Justice Commission after providing
16 notice to the Attorney General, the federal Witness Security Reform
17 Act, if satisfied that such change will not result in a substantial
18 likelihood that the parolee will commit an offense which would be a
19 crime under the laws of this State. The appropriate board panel may
20 revoke such permission, except in the case of a parolee under the
21 Witness Security Reform Act, or reinstate relieved parole conditions
22 for any period of time during which a parolee is under its jurisdiction.

23 d. The appropriate board panel may parole an inmate to any
24 residential facility funded in whole or in part by the State if the inmate
25 would not otherwise be released pursuant to section 9 of P.L.1979,
26 c.441 (C.30:4-123.53) without such placement. But if the residential
27 facility provides treatment for mental illness or mental retardation, the
28 board panel only may parole the inmate to the facility pursuant to the
29 laws and admissions policies that otherwise govern the admission of
30 persons to that facility, and the facility shall have the authority to
31 discharge the inmate according to the laws and policies that otherwise
32 govern the discharge of persons from the facility, on 10 days' prior
33 notice to the board panel. The board panel shall acknowledge receipt
34 of this notice in writing prior to the discharge. Upon receipt of the
35 notice the board panel shall resume jurisdiction over the inmate.

36 e. [The assigned parole officer] Parole officers shall provide
37 assistance to the parolee in obtaining employment, education or
38 vocational training or in meeting other obligations to assure the
39 parolees compliance with meeting legal requirements related to sex
40 offender notification, address changes and participation in
41 rehabilitation programs as directed by the assigned parole officer.

42 f. The board panel on juvenile commitments and the assigned
43 parole officer shall insure that the least restrictive available alternative
44 is used for any juvenile parolee.

45 g. If the board has granted parole to any inmate from a State
46 correctional facility or juvenile facility and the court has imposed a fine

1 on such inmate, the appropriate board panel shall release such inmate
2 on condition that the parolee make specified fine payments to the
3 Bureau of Parole or the Juvenile Justice Commission. For violation of
4 such conditions, or for violation of a special condition requiring
5 restitution, parole may be revoked only for refusal or failure to make
6 a good faith effort to make such payment.

7 h. Upon collection of the fine the same shall be paid over by the
8 Department of Corrections or by the Juvenile Justice Commission to
9 the State Treasury.

10 (cf: P.L.1997, c.218).

11

12 10. Section 16 of P.L.1979, c.441 (C.30:4-123.60) is amended to
13 read as follows:

14 16. a. Any parolee who violates a condition of parole may be
15 subject to an order pursuant to section 17 of P.L.1979, c.441
16 (C.30:4-123.61) providing for one or more of the following: (1) That
17 he be required to conform to one or more additional conditions of
18 parole; (2) That he forfeit all or a part of commutation time credits
19 granted pursuant to R.S.30:4-140.

20 b. Any parolee who has seriously or persistently violated the
21 conditions of his parole, may have his parole revoked and may be
22 returned to custody pursuant to sections 18 and 19 of P.L.1979, c.441
23 (C.30:4-123.62 and 30:4-123.63). The board shall be notified
24 immediately upon the arrest or indictment of a parolee or upon the
25 filing of charges that the parolee committed an act which, if committed
26 by an adult, would constitute a crime. The board shall not revoke
27 parole on the basis of new charges which have not resulted in a
28 disposition at the trial level except that upon application by the
29 prosecuting authority, the Juvenile Justice Commission established
30 pursuant to section 2 of P.L.1995, c.284 (C.52:17B-170) or the Chief
31 of the [Bureau] State Parole Board's Division of Parole, the
32 chairman of the board or his designee may at any time detain the
33 parolee and commence revocation proceedings pursuant to sections 18
34 and 19 of P.L.1979, c.441 (C.30:4-123.62 and 30:4-123.63) when the
35 chairman determines that the new charges against the parolee are of a
36 serious nature and it appears that the parolee otherwise poses a danger
37 to the public safety. In such cases, a parolee shall be informed that, if
38 he testifies at the revocation proceedings, his testimony and the
39 evidence derived therefrom shall not be used against him in a
40 subsequent criminal prosecution or delinquency adjudication.

41 c. Any parolee who is convicted of a crime or adjudicated
42 delinquent for an act which, if committed by an adult, would constitute
43 a crime, committed while on parole shall have his parole revoked and
44 shall be returned to custody unless the parolee demonstrates, by clear
45 and convincing evidence at a hearing pursuant to section 19 of

1 P.L.1979, c.441 (C.30:4-123.63), that good cause exists why he
2 should not be returned to confinement.
3 (cf: P.L.1995,c.280,s.40).

4

5 11. Section 18 of P.L.1979, c.441 (C.30:4-123.62) is amended to
6 read as follows:

7 18. a. (1) If a parole officer assigned to supervise a parolee has
8 probable cause to believe that the parolee has violated a condition of
9 his parole, such violation being a basis for return to custody pursuant
10 to subsection b. of section 16 of P.L.1979, c.441 (C.30:4-123.60), a
11 designated representative of the chairman of the board may issue a
12 warrant for the arrest of the parolee if evidence indicates that the
13 parolee may not appear at the preliminary hearing or if the parolee
14 poses a danger to the public safety. With the parole warrant, a law
15 enforcement officer may apprehend the delinquent parolee.

16 (2) If a parole officer assigned to supervise a parolee has probable
17 cause to believe that the parolee has committed a crime, has
18 committed an act or is about to commit an act which, if committed by
19 an adult, would constitute a crime, is about to commit a crime or is
20 about to flee the jurisdiction, which violation is a basis for return to
21 custody pursuant to subsection b. of section 16 of P.L.1979, c.441
22 (C.30:4-123.60), and the situation is one of immediate emergency that
23 cannot await the issuance of a warrant by a designated representative,
24 the parole officer, by the parole officer's own warrant, may apprehend
25 the parolee and cause his detention in a suitable facility designated by
26 the Department of Corrections or the Juvenile Justice Commission
27 established pursuant to section 2 of P.L.1995, c.284 (C.52:17B-170),
28 as appropriate, or cause the parolee's confinement in an appropriate
29 institution pending return to a facility designated by the Department
30 of Corrections or the Juvenile Justice Commission, as appropriate, to
31 await the conduction of a preliminary hearing. The warrant shall be in
32 the form prescribed, as appropriate, by the Juvenile Justice
33 Commission or by the [Bureau of Parole and approved by the
34 Department of Corrections] State Parole Board and, when signed by
35 the officer in charge of the case, shall be a sufficient instrument and
36 authority to all peace officers to assist in the apprehension of the
37 parolee. It shall also be sufficient authority for detention of the
38 parolee in a suitable facility, to await the conduction of the preliminary
39 hearing. Upon enforcement of the warrant, the appropriate board panel
40 shall be promptly notified. No parolee held in custody on a parole
41 warrant shall be entitled to release on bail.

42 b. A parolee retaken under this section shall within 14 days be
43 granted a preliminary hearing to be conducted by a hearing officer not
44 previously involved in the case, unless the parolee or the hearing
45 officer requests postponement of the preliminary hearing, which may
46 be granted by the appropriate board panel for good cause, but in no

1 event shall such postponement, if requested by the hearing officer,
2 exceed 14 days.

3 c. The preliminary hearing shall be for the purpose of determining:

4 (1) Whether there is probable cause to believe that the parolee
5 violated a condition of his parole being the basis for return to custody
6 pursuant to subsection b. of section 16 of P.L.1979, c.441
7 (C.30:4-123.60), and

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

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

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

13 (2) The time, date, place and circumstances of the alleged
14 violation;

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

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

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

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

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

24 f. If the evidence presented at the preliminary hearing does not
25 support a finding of probable cause to believe that the parolee has
26 violated a condition of his parole, such violation being a basis for
27 return to custody pursuant to subsection b. of section 16 of P.L.1979,
28 c.441 (C.30:4-123.60), or if it is otherwise determined that revocation
29 is not desirable, the hearing officer may, in accordance with the
30 provisions of subsection a. of section 16 of P.L.1979, c.441
31 (C.30:4-123.60) and section 17 of P.L.1979, c.441 (C.30:4-123.61),
32 issue an order modifying parole and releasing the offender, or
33 continuing parole and releasing the offender.

34 g. If the evidence presented at the preliminary hearing supports a
35 finding of probable cause to believe that the parolee has violated a
36 condition of his parole, the hearing officer shall determine whether the
37 parolee shall be retained in custody or released on specific conditions
38 pending action by the appropriate board panel.

39 h. Conviction of a crime committed while on parole or adjudication
40 of delinquency for an act which, if committed by an adult, would
41 constitute a crime shall be deemed to constitute probable cause to
42 believe that the parolee has violated a condition of parole.
43 (cf: P.L.1995, c.280, s.42).

44

45 ¹[12. (New section) Notwithstanding any other provision of law
46 to the contrary, a person may serve as both the Commissioner of

1 Corrections and the Chairman of the State Parole Board; except that
2 the person shall receive only the salary of the Commissioner of
3 Corrections.]¹

4
5 ¹[13.] 12.¹ Section 3 of P.L.1993, c.246 (C.43:16A-1.4) is
6 amended to read as follows:

7 3. If the Board of Trustees of the Police and Fireman's Retirement
8 System of New Jersey makes a determination, pursuant to section 9 of
9 P.L.1989, c.204 (C.43:16A-1.2), that the parole officers employed by
10 the [Bureau of Parole in the Department of Corrections] State Parole
11 Board are eligible for membership in the Police and Firemen's
12 Retirement System pursuant to section 1 of P.L.1944, c.255
13 (C.43:16A-1), the enrollment of those parole officers shall occur no
14 earlier that one year after the effective date of this section pursuant to
15 P.L.1993, c.246 (C.43:16A-1.4 et al.).
16 (cf: P.L.1993, c.246, s.3).

17
18 ¹[14.] 13.¹ Section 1 of P.L.1968, c.427 (C.2A:154-4) is amended
19 to read as follows:

20 1. All correction officers of the State of New Jersey, parole
21 officers employed by the [Bureau of Parole in the Department of
22 Corrections] State Parole Board and investigators in the Department
23 of Corrections, who have been or who may hereafter be appointed or
24 employed, shall, by virtue of such appointment or employment and in
25 addition to any other power or authority, be empowered to act as
26 officers for the detection, apprehension, arrest and conviction of
27 offenders against the law.
28 (cf: P.L.1993, c.246, s.1).

29
30 ¹[15.] 14.¹ N.J.S.2C:39-6 is amended to read as follows:

31 2C:39-6. a. Provided a person complies with the requirements of
32 subsection j. of this section, N.J.S.2C:39-5 does not apply to:

33 (1) Members of the Armed Forces of the United States or of the
34 National Guard while actually on duty, or while traveling between
35 places of duty and carrying authorized weapons in the manner
36 prescribed by the appropriate military authorities;

37 (2) Federal law enforcement officers, and any other federal officers
38 and employees required to carry firearms in the performance of their
39 official duties;

40 (3) Members of the State Police and, under conditions prescribed
41 by the superintendent, members of the Marine Law Enforcement
42 Bureau of the Division of State Police;

43 (4) A sheriff, undersheriff, sheriff's officer, county prosecutor,
44 assistant prosecutor, prosecutor's detective or investigator, deputy
45 attorney general or State investigator employed by the Division of
46 Criminal Justice of the Department of Law and Public Safety,

1 investigator employed by the State Commission of Investigation,
2 inspector of the Alcoholic Beverage Control Enforcement Bureau of
3 the Division of State Police in the Department of Law and Public
4 Safety authorized to carry such weapons by the Superintendent of
5 State Police, State park ranger, or State conservation officer;

6 (5) A prison or jail warden of any penal institution in this State or
7 his deputies, or an employee of the Department of Corrections
8 engaged in the interstate transportation of convicted offenders, while
9 in the performance of his duties, and when required to possess the
10 weapon by his superior officer, or a correction officer or keeper of a
11 penal institution in this State at all times while in the State of New
12 Jersey, provided he annually passes an examination approved by the
13 superintendent testing his proficiency in the handling of firearms;

14 (6) A civilian employee of the United States Government under the
15 supervision of the commanding officer of any post, camp, station, base
16 or other military or naval installation located in this State who is
17 required, in the performance of his official duties, to carry firearms,
18 and who is authorized to carry such firearms by said commanding
19 officer, while in the actual performance of his official duties;

20 (7) (a) A regularly employed member, including a detective, of the
21 police department of any county or municipality, or of any State,
22 interstate, municipal or county park police force or boulevard police
23 force, at all times while in the State of New Jersey;

24 (b) A special law enforcement officer authorized to carry a weapon
25 as provided in subsection b. of section 7 of P.L.1985, c.439
26 (C.40A:14-146.14);

27 (c) An airport security officer or a special law enforcement officer
28 appointed by the governing body of any county or municipality, except
29 as provided in subsection b. of this section, or by the commission,
30 board or other body having control of a county park or airport or
31 boulevard police force, while engaged in the actual performance of his
32 official duties and when specifically authorized by the governing body
33 to carry weapons;

34 (8) A full-time, paid member of a paid or part-paid fire department
35 or force of any municipality who is assigned full-time or part-time to
36 an arson investigation unit created pursuant to section 1 of P.L.1981,
37 c.409 (C.40A:14-7.1) or to the county arson investigation unit in the
38 county prosecutor's office, while either engaged in the actual
39 performance of arson investigation duties or while actually on call to
40 perform arson investigation duties and when specifically authorized by
41 the governing body or the county prosecutor, as the case may be, to
42 carry weapons. Prior to being permitted to carry a firearm, such a
43 member shall take and successfully complete a firearms training course
44 administered by the Police Training Commission pursuant to P.L.1961,
45 c.56 (C.52:17B-66 et seq.), and shall annually qualify in the use of a
46 revolver or similar weapon prior to being permitted to carry a firearm;

1 (9) A juvenile corrections officer in the employment of the Juvenile
2 Justice Commission established pursuant to section 2 of P.L.1995,
3 c.284 (C.52:17B-170) subject to the regulations promulgated by the
4 commission.

5 b. Subsections a., b. and c. of N.J.S.2C:39-5 do not apply to:

6 (1) A law enforcement officer employed by a governmental agency
7 outside of the State of New Jersey while actually engaged in his
8 official duties, provided, however, that he has first notified the
9 superintendent or the chief law enforcement officer of the municipality
10 or the prosecutor of the county in which he is engaged; or

11 (2) A licensed dealer in firearms and his registered employees
12 during the course of their normal business while traveling to and from
13 their place of business and other places for the purpose of
14 demonstration, exhibition or delivery in connection with a sale,
15 provided, however, that the weapon is carried in the manner specified
16 in subsection g. of this section.

17 c. Provided a person complies with the requirements of subsection
18 j. of this section, subsections b. and c. of N.J.S.2C:39-5 do not apply
19 to:

20 (1) A special agent of the Division of Taxation who has passed an
21 examination in an approved police training program testing proficiency
22 in the handling of any firearm which he may be required to carry, while
23 in the actual performance of his official duties and while going to or
24 from his place of duty, or any other police officer, while in the actual
25 performance of his official duties;

26 (2) A State deputy conservation officer or a full-time employee of
27 the Division of Parks and Forestry having the power of arrest and
28 authorized to carry weapons, while in the actual performance of his
29 official duties;

30 (3) (Deleted by amendment, P.L.1986, c.150.)

31 (4) A court attendant serving as such under appointment by the
32 sheriff of the county or by the judge of any municipal court or other
33 court of this State, while in the actual performance of his official
34 duties;

35 (5) A guard in the employ of any railway express company,
36 banking or building and loan or savings and loan institution of this
37 State, while in the actual performance of his official duties;

38 (6) A member of a legally recognized military organization while
39 actually under orders or while going to or from the prescribed place
40 of meeting and carrying the weapons prescribed for drill, exercise or
41 parade;

42 (7) An officer of the Society for the Prevention of Cruelty to
43 Animals, while in the actual performance of his duties;

44 (8) An employee of a public utilities corporation actually engaged
45 in the transportation of explosives;

46 (9) A railway policeman, except a transit police officer of the New

1 Jersey Transit Police Department, at all times while in the State of
2 New Jersey, provided that he has passed an approved police academy
3 training program consisting of at least 280 hours. The training
4 program shall include, but need not be limited to, the handling of
5 firearms, community relations, and juvenile relations;

6 (10) A campus police officer appointed under P.L.1970, c.211
7 (C.18A:6-4.2 et seq.) at all times. Prior to being permitted to carry a
8 firearm, a campus police officer shall take and successfully complete
9 a firearms training course administered by the Police Training
10 Commission, pursuant to P.L.1961, c.56 (C.52:17B-66 et seq.), and
11 shall annually qualify in the use of a revolver or similar weapon prior
12 to being permitted to carry a firearm;

13 (11) A person who has not been convicted of a crime under the
14 laws of this State or under the laws of another state or the United
15 States, and who is employed as a full-time security guard for a nuclear
16 power plant under the license of the Nuclear Regulatory Commission,
17 while in the actual performance of his official duties;

18 (12) A transit police officer of the New Jersey Transit Police
19 Department, at all times while in the State of New Jersey, provided the
20 officer has satisfied the training requirements of the Police Training
21 Commission, pursuant to subsection c. of section 2 of P.L.1989, c.291
22 (C.27:25-15.1);

23 (13) A parole officer employed by the [Bureau of Parole in the
24 Department of Corrections] State Parole Board at all times. Prior to
25 being permitted to carry a firearm, a parole officer shall take and
26 successfully complete a basic course for regular police officer training
27 administered by the Police Training Commission, pursuant to
28 P.L.1961, c.56 (C.52:17B-66 et seq.), and shall annually qualify in the
29 use of a revolver or similar weapon prior to being permitted to carry
30 a firearm;

31 (14) A Human Services police officer at all times while in the State
32 of New Jersey, as authorized by the Commissioner of Human Services;

33 (15) A person or employee of any person who, pursuant to and as
34 required by a contract with a governmental entity, supervises or
35 transports persons charged with or convicted of an offense; or

36 (16) A housing authority police officer appointed under P.L.1997,
37 c.210 (C.40A:14-146.19 et al.) at all times while in the State of New
38 Jersey.

39 d. (1) Subsections c. and d. of N.J.S.2C:39-5 do not apply to
40 antique firearms, provided that such antique firearms are unloaded or
41 are being fired for the purposes of exhibition or demonstration at an
42 authorized target range or in such other manner as has been approved
43 in writing by the chief law enforcement officer of the municipality in
44 which the exhibition or demonstration is held, or if not held on
45 property under the control of a particular municipality, the
46 superintendent.

1 (2) Subsection a. of N.J.S.2C:39-3 and subsection d. of
2 N.J.S.2C:39-5 do not apply to an antique cannon that is capable of
3 being fired but that is unloaded and immobile, provided that the
4 antique cannon is possessed by (a) a scholastic institution, a museum,
5 a municipality, a county or the State, or (b) a person who obtained a
6 firearms purchaser identification card as specified in N.J.S.2C:58-3.

7 (3) Subsection a. of N.J.S.2C:39-3 and subsection d. of
8 N.J.S.2C:39-5 do not apply to an unloaded antique cannon that is
9 being transported by one eligible to possess it, in compliance with
10 regulations the superintendent may promulgate, between its permanent
11 location and place of purchase or repair.

12 (4) Subsection a. of N.J.S.2C:39-3 and subsection d. of
13 N.J.S.2C:39-5 do not apply to antique cannons that are being loaded
14 or fired by one eligible to possess an antique cannon, for purposes of
15 exhibition or demonstration at an authorized target range or in the
16 manner as has been approved in writing by the chief law enforcement
17 officer of the municipality in which the exhibition or demonstration is
18 held, or if not held on property under the control of a particular
19 municipality, the superintendent, provided that performer has given at
20 least 30 days' notice to the superintendent.

21 (5) Subsection a. of N.J.S.2C:39-3 and subsection d. of
22 N.J.S.2C:39-5 do not apply to the transportation of unloaded antique
23 cannons directly to or from exhibitions or demonstrations authorized
24 under paragraph (4) of subsection d. of this section, provided that the
25 transportation is in compliance with safety regulations the
26 superintendent may promulgate. Nor do those subsections apply to
27 transportation directly to or from exhibitions or demonstrations
28 authorized under the law of another jurisdiction, provided that the
29 superintendent has been given 30 days' notice and that the
30 transportation is in compliance with safety regulations the
31 superintendent may promulgate.

32 e. Nothing in subsections b., c. and d. of N.J.S.2C:39-5 shall be
33 construed to prevent a person keeping or carrying about his place of
34 business, residence, premises or other land owned or possessed by
35 him, any firearm, or from carrying the same, in the manner specified
36 in subsection g. of this section, from any place of purchase to his
37 residence or place of business, between his dwelling and his place of
38 business, between one place of business or residence and another when
39 moving, or between his dwelling or place of business and place where
40 such firearms are repaired, for the purpose of repair. For the purposes
41 of this section, a place of business shall be deemed to be a fixed
42 location.

43 f. Nothing in subsections b., c. and d. of N.J.S.2C:39-5 shall be
44 construed to prevent:

45 (1) A member of any rifle or pistol club organized in accordance
46 with the rules prescribed by the National Board for the Promotion of

1 Rifle Practice, in going to or from a place of target practice, carrying
2 such firearms as are necessary for said target practice, provided that
3 the club has filed a copy of its charter with the superintendent and
4 annually submits a list of its members to the superintendent and
5 provided further that the firearms are carried in the manner specified
6 in subsection g. of this section;

7 (2) A person carrying a firearm or knife in the woods or fields or
8 upon the waters of this State for the purpose of hunting, target
9 practice or fishing, provided that the firearm or knife is legal and
10 appropriate for hunting or fishing purposes in this State and he has in
11 his possession a valid hunting license, or, with respect to fresh water
12 fishing, a valid fishing license;

13 (3) A person transporting any firearm or knife while traveling:

14 (a) Directly to or from any place for the purpose of hunting or
15 fishing, provided the person has in his possession a valid hunting or
16 fishing license; or

17 (b) Directly to or from any target range, or other authorized place
18 for the purpose of practice, match, target, trap or skeet shooting
19 exhibitions, provided in all cases that during the course of the travel
20 all firearms are carried in the manner specified in subsection g. of this
21 section and the person has complied with all the provisions and
22 requirements of Title 23 of the Revised Statutes and any amendments
23 thereto and all rules and regulations promulgated thereunder; or

24 (c) In the case of a firearm, directly to or from any exhibition or
25 display of firearms which is sponsored by any law enforcement agency,
26 any rifle or pistol club, or any firearms collectors club, for the purpose
27 of displaying the firearms to the public or to the members of the
28 organization or club, provided, however, that not less than 30 days
29 prior to the exhibition or display, notice of the exhibition or display
30 shall be given to the Superintendent of the State Police by the
31 sponsoring organization or club, and the sponsor has complied with
32 such reasonable safety regulations as the superintendent may
33 promulgate. Any firearms transported pursuant to this section shall be
34 transported in the manner specified in subsection g. of this section;

35 (4) A person from keeping or carrying about a private or
36 commercial aircraft or any boat, or from transporting to or from such
37 vessel for the purpose of installation or repair a visual distress
38 signalling device approved by the United States Coast Guard.

39 g. All weapons being transported under paragraph (2) of
40 subsection b., subsection e., or paragraph (1) or (3) of subsection f. of
41 this section shall be carried unloaded and contained in a closed and
42 fastened case, gunbox, securely tied package, or locked in the trunk of
43 the automobile in which it is being transported, and in the course of
44 travel shall include only such deviations as are reasonably necessary
45 under the circumstances.

46 h. Nothing in subsection d. of N.J.S.2C:39-5 shall be construed to

1 prevent any employee of a public utility, as defined in R.S.48:2-13,
2 doing business in this State or any United States Postal Service
3 employee, while in the actual performance of duties which specifically
4 require regular and frequent visits to private premises, from
5 possessing, carrying or using any device which projects, releases or
6 emits any substance specified as being noninjurious to canines or other
7 animals by the Commissioner of Health and Senior Services and which
8 immobilizes only on a temporary basis and produces only temporary
9 physical discomfort through being vaporized or otherwise dispensed
10 in the air for the sole purpose of repelling canine or other animal
11 attacks.

12 The device shall be used solely to repel only those canine or other
13 animal attacks when the canines or other animals are not restrained in
14 a fashion sufficient to allow the employee to properly perform his
15 duties.

16 Any device used pursuant to this act shall be selected from a list of
17 products, which consist of active and inert ingredients, permitted by
18 the Commissioner of Health and Senior Services.

19 i. Nothing in N.J.S.2C:39-5 shall be construed to prevent any
20 person who is 18 years of age or older and who has not been convicted
21 of a felony, from possession for the purpose of personal self-defense
22 of one pocket-sized device which contains and releases not more than
23 three-quarters of an ounce of chemical substance not ordinarily
24 capable of lethal use or of inflicting serious bodily injury, but rather,
25 is intended to produce temporary physical discomfort or disability
26 through being vaporized or otherwise dispensed in the air. Any person
27 in possession of any device in violation of this subsection shall be
28 deemed and adjudged to be a disorderly person, and upon conviction
29 thereof, shall be punished by a fine of not less than \$100.00.

30 j. A person shall qualify for an exemption from the provisions of
31 N.J.S.2C:39-5, as specified under subsections a. and c. of this section,
32 if the person has satisfactorily completed a firearms training course
33 approved by the Police Training Commission.

34 Such exempt person shall not possess or carry a firearm until the
35 person has satisfactorily completed a firearms training course and shall
36 annually qualify in the use of a revolver or similar weapon. For
37 purposes of this subsection, a "firearms training course" means a
38 course of instruction in the safe use, maintenance and storage of
39 firearms which is approved by the Police Training Commission. The
40 commission shall approve a firearms training course if the
41 requirements of the course are substantially equivalent to the
42 requirements for firearms training provided by police training courses
43 which are certified under section 6 of P.L.1961, c.56 (C.52:17B-71).
44 A person who is specified in paragraph (1), (2), (3) or (6) of
45 subsection a. of this section shall be exempt from the requirements of
46 this subsection.

1 k. Nothing in subsection d. of N.J.S.2C:39-5 shall be construed to
2 prevent any financial institution, or any duly authorized personnel of
3 the institution, from possessing, carrying or using for the protection of
4 money or property, any device which projects, releases or emits tear
5 gas or other substances intended to produce temporary physical
6 discomfort or temporary identification.

7 l. Nothing in subsection b. of N.J.S.2C:39-5 shall be construed to
8 prevent a law enforcement officer who retired in good standing,
9 including a retirement because of a disability pursuant to section 6 of
10 P.L.1944, c.255 (C.43:16A-6), section 7 of P.L.1944, c.255
11 (C.43:16A-7), section 1 of P.L.1989, c.103 (C.43:16A-6.1) or any
12 substantially similar statute governing the disability retirement of
13 federal law enforcement officers, provided the officer was a regularly
14 employed, full-time law enforcement officer for an aggregate of five
15 or more years prior to his disability retirement and further provided
16 that the disability which constituted the basis for the officer's
17 retirement did not involve a certification that the officer was mentally
18 incapacitated for the performance of his usual law enforcement duties
19 and any other available duty in the department which his employer was
20 willing to assign to him or does not subject that retired officer to any
21 of the disabilities set forth in subsection c. of N.J.S.2C:58-3 which
22 would disqualify the retired officer from possessing or carrying a
23 firearm, who semi-annually qualifies in the use of the handgun he is
24 permitted to carry in accordance with the requirements and procedures
25 established by the Attorney General pursuant to subsection j. of this
26 section and pays the actual costs associated with those semi-annual
27 qualifications, who is less than 70 years of age, and who was regularly
28 employed as a full-time member of the State Police; a full-time
29 member of an interstate police force; a full-time member of a county
30 or municipal police department in this State; a full-time member of a
31 State law enforcement agency; a full-time sheriff, undersheriff or
32 sheriff's officer of a county of this State; a full-time State or county
33 corrections officer; a full-time county park police officer; a full-time
34 county prosecutor's detective or investigator; or a full-time federal law
35 enforcement officer from carrying a handgun in the same manner as
36 law enforcement officers exempted under paragraph (7) of subsection
37 a. of this section under the conditions provided herein:

38 (1) The retired law enforcement officer, within six months after
39 retirement, shall make application in writing to the Superintendent of
40 State Police for approval to carry a handgun for one year. An
41 application for annual renewal shall be submitted in the same manner.

42 (2) Upon receipt of the written application of the retired law
43 enforcement officer, the superintendent shall request a verification of
44 service from the chief law enforcement officer of the organization in
45 which the retired officer was last regularly employed as a full-time law
46 enforcement officer prior to retiring. The verification of service shall

1 include:

2 (a) The name and address of the retired officer;

3 (b) The date that the retired officer was hired and the date that the
4 officer retired;

5 (c) A list of all handguns known to be registered to that officer;

6 (d) A statement that, to the reasonable knowledge of the chief law
7 enforcement officer, the retired officer is not subject to any of the
8 restrictions set forth in subsection c. of N.J.S.2C:58-3; and

9 (e) A statement that the officer retired in good standing.

10 (3) If the superintendent approves a retired officer's application or
11 reapplication to carry a handgun pursuant to the provisions of this
12 subsection, the superintendent shall notify in writing the chief law
13 enforcement officer of the municipality wherein that retired officer
14 resides. In the event the retired officer resides in a municipality which
15 has no chief law enforcement officer or law enforcement agency, the
16 superintendent shall maintain a record of the approval.

17 (4) The superintendent shall issue to an approved retired officer an
18 identification card permitting the retired officer to carry a handgun
19 pursuant to this subsection. This identification card shall be valid for
20 one year from the date of issuance and shall be valid throughout the
21 State. The identification card shall not be transferable to any other
22 person. The identification card shall be carried at all times on the
23 person of the retired officer while the retired officer is carrying a
24 handgun. The retired officer shall produce the identification card for
25 review on the demand of any law enforcement officer or authority.

26 (5) Any person aggrieved by the denial of the superintendent of
27 approval for a permit to carry a handgun pursuant to this subsection
28 may request a hearing in the Superior Court of New Jersey in the
29 county in which he resides by filing a written request for such a
30 hearing within 30 days of the denial. Copies of the request shall be
31 served upon the superintendent and the county prosecutor. The
32 hearing shall be held within 30 days of the filing of the request, and no
33 formal pleading or filing fee shall be required. Appeals from the
34 determination of such a hearing shall be in accordance with law and
35 the rules governing the courts of this State.

36 (6) A judge of the Superior Court may revoke a retired officer's
37 privilege to carry a handgun pursuant to this subsection for good cause
38 shown on the application of any interested person. A person who
39 becomes subject to any of the disabilities set forth in subsection c. of
40 N.J.S.2C:58-3 shall surrender, as prescribed by the superintendent, his
41 identification card issued under paragraph (4) of this subsection to the
42 chief law enforcement officer of the municipality wherein he resides or
43 the superintendent, and shall be permanently disqualified to carry a
44 handgun under this subsection.

45 (7) The superintendent may charge a reasonable application fee to
46 retired officers to offset any costs associated with administering the

1 application process set forth in this subsection.

2 m. Nothing in subsection d. of N.J.S.2C:39-5 shall be construed to
3 prevent duly authorized personnel of the New Jersey Division of Fish,
4 Game and Wildlife, while in the actual performance of duties, from
5 possessing, transporting or using any device that projects, releases or
6 emits any substance specified as being non-injurious to wildlife by the
7 Director of the Division of Animal Health in the Department of
8 Agriculture, and which may immobilize wildlife and produces only
9 temporary physical discomfort through being vaporized or otherwise
10 dispensed in the air for the purpose of repelling bear or other animal
11 attacks or for the aversive conditioning of wildlife.

12 n. Nothing in subsection b., c., d. or e. of N.J.S.2C:39-5 shall be
13 construed to prevent duly authorized personnel of the New Jersey
14 Division of Fish, Game and Wildlife, while in the actual performance
15 of duties, from possessing, transporting or using hand held pistol-like
16 devices, rifles or shotguns that launch pyrotechnic missiles for the sole
17 purpose of frightening, hazing or aversive conditioning of nuisance or
18 depredating wildlife; from possessing, transporting or using rifles,
19 pistols or similar devices for the sole purpose of chemically
20 immobilizing wild or non-domestic animals; or, provided the duly
21 authorized person complies with the requirements of subsection j. of
22 this section, from possessing, transporting or using rifles or shotguns,
23 upon completion of a Police Training Commission approved training
24 course, in order to dispatch injured or dangerous animals or for
25 non-lethal use for the purpose of frightening, hazing or aversive
26 conditioning of nuisance or depredating wildlife.

27 (cf: P.L.1997, c.393, s.1)

28

29 ¹[16.] 15.¹ Section 2 of P.L.1997, c.117 (C.2C:43-7.2) is
30 amended to read as follows:

31 2. a. A court imposing a sentence of incarceration for a crime of
32 the first or second degree shall fix a minimum term of 85% of the
33 sentence during which the defendant shall not be eligible for parole if
34 the crime is a violent crime as defined in subsection d. of this section.

35 b. The provisions of subsection a. of this section shall not be
36 construed or applied to reduce the time that must be served before
37 eligibility for parole by an inmate sentenced to a mandatory minimum
38 period of incarceration.

39 c. Notwithstanding any other provision of law to the contrary and
40 in addition to any other sentence imposed, a court imposing a
41 minimum period of parole ineligibility of 85 percent of the sentence
42 pursuant to this section shall also¹[, unless the court imposes a
43 sentence of lifetime parole supervision pursuant to P.L. , c.
44 (C.)(now pending before the Legislature as Senate Bill No. 524
45 SCS),]¹ impose a five-year term of parole supervision if the defendant
46 is being sentenced for a crime of the first degree, or a three-year term

1 of parole supervision if the defendant is being sentenced for a crime of
2 the second degree. The term of parole supervision shall commence
3 upon the completion of the sentence of incarceration imposed by the
4 court pursuant to subsection a. of this section unless the defendant is
5 serving a sentence of incarceration for another crime at the time he
6 completes the sentence of incarceration imposed pursuant to
7 subsection a., in which case the term of parole supervision shall
8 commence immediately upon the defendant's release from
9 incarceration. During the term of parole supervision the defendant
10 shall remain in release status in the community in the legal custody of
11 the Commissioner of the Department of Corrections and shall be
12 supervised by the [Bureau of Parole of the Department of
13 Corrections] State Parole Board as if on parole and shall be subject to
14 the provisions and conditions of section 3 of P.L.1997, c.117
15 (C.30:4-123.51b).

16 d. For the purposes of this section, "violent crime" means any
17 crime in which the actor causes death, causes serious bodily injury as
18 defined in subsection b. of N.J.S.2C:11-1, or uses or threatens the
19 immediate use of a deadly weapon. "Violent crime" also includes any
20 aggravated sexual assault or sexual assault in which the actor uses, or
21 threatens the immediate use of, physical force.

22 For the purposes of this section, "deadly weapon" means any
23 firearm or other weapon, device, instrument, material or substance,
24 whether animate or inanimate, which in the manner it is used or is
25 intended to be used, is known to be capable of producing death or
26 serious bodily injury.

27 e. A court shall not impose sentence pursuant to this section unless
28 the ground therefor has been established at a hearing after the
29 conviction of the defendant and on written notice to him of the ground
30 proposed. The defendant shall have the right to hear and controvert
31 the evidence against him and to offer evidence upon the issue.

32 (cf: P.L.1997, c.117, s.1).

33

34 ¹[17.] 16.¹ This act shall take effect immediately.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

SENATE, No. 2026

with committee amendments

STATE OF NEW JERSEY

DATED: MARCH 15, 2001

The Senate Budget and Appropriations Committee reports favorably and with committee amendments Senate Bill No. 2026 (1R).

This bill provides for the reconstitution of the Bureau of Parole, presently allocated within the Department of Corrections, as the Division of Parole within the State Parole Board.

Under current law, two agencies have the responsibility for parole: the State Parole Board and the Bureau of Parole. The State Parole Board, which operates as an autonomous agency, determines when an inmate who is eligible for parole may be safely released. The Bureau of Parole, which is in the Department of Corrections, is charged with the responsibility of supervising an inmate once that inmate is released.

This bill would transfer the Bureau of Parole to the State Parole Board, consolidating the two agencies under one direct authority. The bill attempts to address the current problems in the system that result in a lack of coordination between the two agencies, especially with regard to notification of the appropriate authorities when an inmate is scheduled for release. Under the provisions of this bill, the State Parole Board would be charged with the responsibilities of notifying the prosecutor when an inmate is scheduled to be released on parole, with the Department of Corrections retaining responsibility for such notification in cases of non-parole release.

COMMITTEE AMENDMENTS

Committee amendments to this bill (1) provide for the allocation, between the State Parole Board and the Department of Corrections, of responsibility for notification to prosecutors of inmate release, (2) extend the right to request postponement of a hearing on a parolee's violation of parole, currently limited to the parolee and the hearing officer, to the parole officer, (3) allow the objective risk assessment, conducted with respect to any adult inmate eligible for release on parole, to be performed by State agents not employed by the State Parole Board, and (4) make various technical revisions.

FISCAL IMPACT

The fiscal impact of this bill cannot be determined at this time. Currently, there are a number of functions supporting the activities of the Bureau of Parole that are performed by or through the Department of Corrections, including radio monitoring, parolee transport, laboratory testing, parole officer training, special investigations, employee relations, and financial management. The extent to which these services will continue to be provided by the Department of Corrections is subject to discussion with the State Parole Board. It is not expected, however, that any increased costs or savings that may result from the agency transfer for which the bill provides will be substantial.

[Second Reprint]
SENATE, No. 2026

STATE OF NEW JERSEY
209th LEGISLATURE

INTRODUCED JANUARY 9, 2001

Sponsored by:

Senator WILLIAM L. GORMLEY

District 2 (Atlantic)

Senator JOHN J. MATHEUSSEN

District 4 (Camden and Gloucester)

Co-Sponsored by:

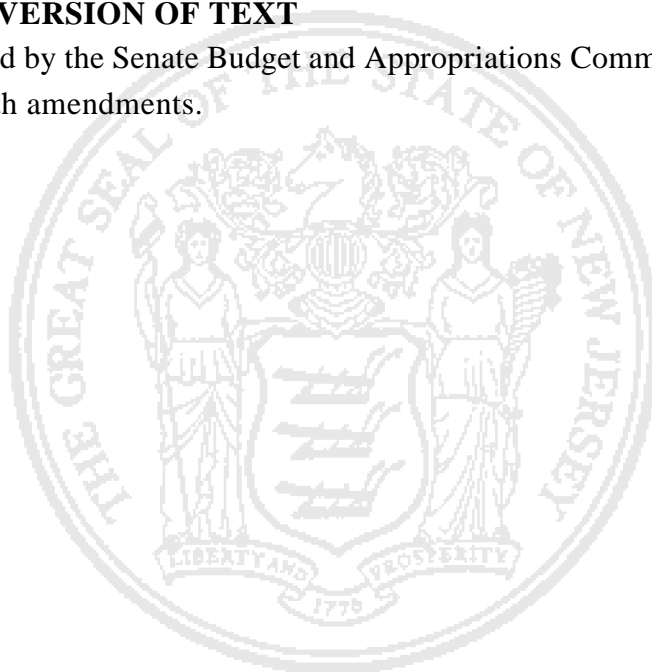
Assemblymen Holzapfel and O'Toole

SYNOPSIS

Transfers the Bureau of Parole in the Department of Corrections to the State Parole Board.

CURRENT VERSION OF TEXT

As reported by the Senate Budget and Appropriations Committee on March 15, 2001, with amendments.



(Sponsorship Updated As Of: 3/30/2001)

1 AN ACT concerning parole and revising various parts of the statutory
2 law.

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

6
7 1. (New section) a. ²[All] The Bureau of Parole in the
8 Department of Corrections is hereby constituted as the Division of
9 Parole in the State Parole Board, and all² functions, powers and duties
10 of the existing Bureau of Parole ²[in the Department of Corrections]²
11 are hereby transferred to the State Parole Board.

12 b. All files, books, papers, records, equipment and other property
13 of the Bureau of Parole in the Department of Corrections shall be
14 transferred to the State Parole Board.

15 c. All appropriations and other moneys available and to become
16 available to the Bureau of Parole in the Department of Corrections,
17 the functions, powers and duties of which have been assigned or
18 transferred herein, ²or to the Department of Corrections on behalf of
19 the Bureau of Parole, including such funds as are appropriated for the
20 administration of the Bureau of Parole,² are hereby transferred to the
21 State Parole Board and shall be available for the objects and purposes
22 for which appropriated, subject to any terms, restrictions, limitations
23 or other requirements imposed by State or Federal law.

24 d. The employees of the Bureau of Parole in the Department of
25 Corrections are hereby transferred to the State Parole Board.

26 e. Nothing in P.L. c. (C.) (now pending before the
27 Legislature as this bill) shall be construed to deprive any person of any
28 tenure rights or of any right or protection provided him by Title ²[11]
29 11A² of the ²[Revised] New Jersey² Statutes, Civil Service, or under
30 any pension law or retirement system.

31 f. P.L. c. (C.) (now pending before the Legislature as this
32 bill) shall not affect actions or proceedings, civil or criminal, brought
33 by or against the Bureau of Parole in the Department of Corrections,
34 the functions, powers and duties of which have been herein assigned
35 or transferred to the State Parole Board.

36
37 2. Section 1 of P.L.1979, c. 441 (C. 30:4-123.45) is amended to
38 read as follows:

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

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

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 8, 2001.

² Senate SBA committee amendments adopted March 15, 2001.

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

3 (2) "Juvenile inmate" means any person under commitment as a
4 juvenile delinquent pursuant to section 25 of P.L.1982, c.77
5 (C.2A:4A-44).

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

9 (4) "Primary parole eligibility date" means that date established for
10 parole eligibility for adult inmates pursuant to section 7 or 20 of this
11 act.

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

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

25 (7) "Commission" means the Juvenile Justice Commission
26 established pursuant to section 2 of P.L.1995, c.284 (C.52:17B-170).

27 (8) "Parole officer" means, with respect to an adult inmate, an
28 officer assigned by the [Bureau of Parole] Chairman of the State
29 Parole Board or his designee and, with respect to a juvenile inmate, a
30 person assigned by the commission.

31 (cf: P.L.1995, c.280, s.34).

32

33 3. Section 1 of P.L.1997, c.215 (C.30:4-123.47a) is amended to
34 read as follows:

35 1. There is hereby established a Parole Advisory Board in, but not
36 of, the [Bureau of Parole] State Parole Board. Notwithstanding the
37 allocation of the board within the [bureau] State Parole Board, the
38 [bureau] State Parole Board or any employee thereof shall not
39 exercise any control over the [board] Parole Advisory Board. The
40 advisory board shall consist of 23 members. It shall include in its
41 membership the [Chief of the Bureau of Parole in the Department of
42 Corrections] Chairman of the State Parole Board or his designee, who
43 shall serve ex officio; one member representing each of the following
44 organizations and groups, who shall be appointed by the Governor:
45 [the State Parole Board,] the Department of Corrections, the
46 Department of Health and Senior Services, the Department of Law and

1 Public Safety, Office of the Governor, the Administrative Office of the
2 Courts, the Victims of Crime Compensation Board, the New Jersey
3 Chapter of the American Correctional Association, the County
4 Prosecutors Association of New Jersey, the Sheriffs' Association of
5 New Jersey, the New Jersey Wardens Association, the New Jersey
6 State Association of Chiefs of Police, the American Parole and
7 Probation Association, Governor's Council on Alcoholism and Drug
8 Abuse, the community at large, treatment providers, victims' rights
9 groups and former inmates who have successfully completed parole.
10 Two members of the Senate, who shall not be of the same political
11 party and who shall serve during their terms of office, shall be
12 appointed by the President of the Senate. Two members of the
13 General Assembly, who shall not be of the same political party and
14 who shall serve during their terms of office, shall be appointed by the
15 Speaker of the General Assembly.

16 Members of the advisory board shall be appointed with the advice
17 and consent of the Senate, and serve a term of three years, except for
18 the initial gubernatorial appointees, six of whom shall serve for two
19 years and six of whom shall serve for four years. Each member shall
20 serve for the term of appointment and until a successor is appointed.
21 A member may be reappointed to the advisory board. A member
22 appointed to fill a vacancy occurring in the membership of the advisory
23 board for any reason other than the expiration of the term shall serve
24 a term of appointment for the unexpired term only. All vacancies shall
25 be filled in the same manner as the original appointments. Any
26 appointed member of the advisory board, except the legislative
27 members, may be removed from the advisory board by the Governor,
28 for cause, after a hearing, and may be suspended by the Governor
29 pending the completion of the hearing. Legislative members may be
30 removed for cause by the leader of their respective houses. Motions
31 and resolutions may be adopted by the advisory board at a board
32 meeting by an affirmative vote of not less than 12 members.

33 Members of the advisory board shall serve without compensation
34 but shall be entitled to reimbursement for actual expenses of serving
35 on the board, to the extent that funds are available for this purpose.

36 The advisory board shall organize as soon as possible after the
37 appointment of its members. The members shall select a chair from
38 among their number.

39 (cf: P.L.1997, c.215, s.1).

40

41 4. Section 2 of P.L.1997, c.215 (C.30:4-123.47b.) is amended to
42 read as follows:

43 2. It shall be the duty of the advisory board to review and comment
44 on supervision issues, the development and implementation of drug
45 and alcohol treatment programs for parolees, and any other issues as
46 requested by the [Commissioner of Corrections] State Parole Board,

1 taking into consideration all relevant research [conducted by the
2 Bureau of Parole]. The advisory board shall sponsor conferences
3 with criminal justice administrators and community members, including
4 treatment providers, in order to educate all interested parties in the
5 importance of relapse prevention and treatment for specialized cases,
6 and to address issues such as lowering costs, developing protocols for
7 confidentiality, identifying the type and amount of treatment that
8 should be available, and promoting community involvement in the
9 reintegration process. The advisory board may make
10 recommendations to the Commissioner of Corrections, the Chairman
11 of the State Parole Board, the Legislature and the Governor in these
12 matters.

13 The advisory board shall meet at least semiannually and may hold
14 hearings at any place or places it shall designate during the sessions or
15 recesses of the Legislature. The [Bureau of Parole] State Parole
16 Board shall have primary responsibility for providing staff services and
17 other necessary support to the board. The advisory board may also
18 request the assistance and services of the employees of any State,
19 county or municipal department, board, bureau, commission, task
20 force or agency as it may require and as may be available to it for its
21 purposes. The advisory board may, within the limits of funds
22 appropriated or otherwise made available to it for its purposes, employ
23 stenographic and clerical assistants and incur travel and miscellaneous
24 expenses necessary for the performance of its duties.

25 (cf: P.L.1997, c.215, s.2).

26

27 5. Section 4 of P.L.1979, c.441 (C.30:4-123.48) is amended to
28 read as follows:

29 4. a. All policies and determinations of the Parole Board shall be
30 made by the majority vote of the members.

31 b. Except where otherwise noted, parole determinations on
32 individual cases pursuant to this act shall be made by the majority vote
33 of a quorum of the appropriate board panel established pursuant to this
34 section.

35 c. The chairman of the board shall be the chief executive officer of
36 the board and, after consulting with the board, shall be responsible for
37 designating the time and place of all board meetings, for appointing the
38 board's employees, for organizing, controlling and directing the work
39 of the board and its employees, and for preparation and justification of
40 the board's budget. The nonsecretarial professional and supervisory
41 employees of the board such as, but not limited to, hearing officers,
42 shall serve at the pleasure of the chairman and shall not be subject to
43 the provisions of Title ²[11] 11A² of the ²[Revised] New Jersey²
44 Statutes.[Nothing contained herein shall be deemed to affect the
45 employees of the Department of Corrections, such as parole officers
46 assigned to supervise parolees] Parole officers assigned to supervise

1 ²adult² parolees and all supervisory titles associated with the
2 supervision of ²adult² parolees in the parole officer series shall be
3 classified employees subject to the provisions of Title ²[11] 11A² of
4 the ²[Revised] New Jersey² Statutes. Parole officers assigned to
5 supervise ²adult² parolees and all supervisory titles associated with the
6 supervision of ²adult² parolees in the parole officer job classification
7 series shall be organizationally assigned to the State Parole Board with
8 a ¹[designee promoted through the ranks of the parole officer job
9 classification series to act as director of parole supervision] sworn
10 member of the Division of Parole appointed to act as director of parole
11 supervision¹. The director of parole supervision shall report directly
12 to the Chairman of the State Parole Board ²or to such person as the
13 chairman may designate².

14 d. The board shall promulgate such reasonable rules and
15 regulations, consistent with this act, as may be necessary for the
16 proper discharge of its responsibilities. The chairman shall file such
17 rules and regulations with the Secretary of State. The provisions of
18 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
19 seq.) shall apply to the promulgation of rules and regulations
20 concerning policy and administration, but not to other actions taken
21 under this act, such as parole hearings, parole revocation hearings and
22 review of parole cases. In determination of its rules and regulations
23 concerning policy and administration, the board shall consult the
24 Governor, the Commissioner of Corrections and the Juvenile Justice
25 Commission established pursuant to section 2 of P.L.1995, c.284
26 (C.52:17B-170).

27 e. The board, in conjunction with the Department of Corrections
28 and the Juvenile Justice Commission, shall develop a uniform
29 information system in order to closely monitor the parole process.
30 Such system shall include participation in the Uniform Parole Reports
31 of the National Council on Crime and Delinquency.

32 f. The board shall transmit a report of its work for the preceding
33 fiscal year, including information on the causes and extent of parole
34 recidivism, to the Governor, the Legislature and the Juvenile Justice
35 Commission annually.

36 g. The board shall give public notice prior to considering any adult
37 inmate for release.

38 h. The board shall give notice to the appropriate prosecutor's office
39 and to the committing court prior to the initial consideration of any
40 juvenile inmate for release.

41 (cf: P.L.1995, c.280, s.35)

42

43 6. Section 3 of P.L.1997, c.117 (C.30:4-123.51b.) is amended to
44 read as follows:

45 3. a. A person who has been sentenced to a term of parole
46 supervision and is on release status in the community pursuant to

1 section 2 of P.L.1997, c.117 (C.2C:43-7.2) shall, during the term of
2 parole supervision, remain on release status in the community, in the
3 legal custody of the Commissioner of the Department of Corrections,
4 and shall be supervised by the [Bureau of Parole of the Department
5 of Corrections] parole officers in the State Parole Board as if on
6 parole, and shall be subject to the provisions and conditions set by the
7 appropriate board panel. The appropriate board panel shall have the
8 authority, in accordance with the procedures and standards set forth
9 in sections 15 through 21 of P.L.1979, c.441 (C.30:4-123.59 through
10 30:4-123.65), to revoke the person's release status and return the
11 person to custody for the remainder of the term or until it is
12 determined, in accordance with regulations adopted by the board, that
13 the person is again eligible for release consideration pursuant to
14 section 9 of P.L.1979, c.441 (C.30:4-123.53).

15 b. The Parole Board shall promulgate rules and regulations
16 necessary to carry out the purposes of this act pursuant to the
17 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
18 seq.).
19 (cf: P.L.1997, c.117, s.3).

20

21 7. Section 1 of P.L.1997, c.214 (C.30:4-123.51c) is amended to
22 read as follows:

23 1. a. (1) For the purpose of this section, "terminal condition,
24 disease or syndrome" means a prognosis by the licensed physicians
25 designated by the Commissioner of Corrections pursuant to subsection
26 b. of this section that an inmate has six months or less to live.

27 (2) Except as otherwise provided in paragraph (3) of this
28 subsection, the appropriate board panel may release on medical parole
29 any inmate serving any sentence of imprisonment who has been
30 diagnosed pursuant to subsection b. of this section as suffering from
31 a terminal condition, disease or syndrome and is found by the
32 appropriate board panel to be so debilitated or incapacitated by the
33 terminal condition, disease or syndrome as to be permanently
34 physically incapable of committing a crime if released on parole.
35 Notwithstanding any provision of P.L.1979, c.441 (C.30:4-123.45 et
36 seq.) to the contrary, the appropriate board panel may release any such
37 inmate at any time during the term of the sentence. An inmate placed
38 on parole pursuant to this section shall be subject to custody,
39 supervision and conditions as provided in section 15 of P.L.1979,
40 c.441 [(C.30:3-123.59)] (C.30:4-123.59) and shall be subject to
41 sanctions for a violation of a condition of parole as provided in
42 sections 16 through 21 of P.L.1979, c.441 (C.30:4-123.60 through
43 30:4-123.65).

44 (3) No inmate serving any sentence for a violation of
45 N.J.S.2C:11-3; N.J.S.2C:11-4; N.J.S.2C:13-1; subsection a. of
46 N.J.S.2C:14-2; N.J.S.2C:15-1 in which the inmate, while in the course

1 of committing the theft, attempted to kill another, or purposely
2 inflicted or attempted to inflict serious bodily injury, or was armed
3 with or used or threatened the immediate use of a deadly weapon;
4 subsection a. of N.J.S.2C:17-1; or N.J.S.2C:24-4 or an attempt to
5 commit any of these offenses shall be eligible for the medical parole
6 authorized under paragraph (2) of this section.

7 b. A medical diagnosis that an inmate is suffering from a terminal
8 condition, disease or syndrome shall be made by two licensed
9 physicians designated by the Commissioner of Corrections. The
10 diagnosis shall include, but not be limited to:

11 (1) a description of the terminal condition, disease or syndrome;

12 (2) a prognosis concerning the likelihood of recovery from the
13 terminal condition, disease or syndrome;

14 (3) a description of the inmate's physical incapacity; and

15 (4) a description of the type of ongoing treatment that would be
16 required if the inmate were released on medical parole.

17 c. A request for a medical diagnosis to determine whether an
18 inmate is eligible for a medical parole under this section may be
19 submitted to the appropriate board panel by the Commissioner of
20 Corrections, the administrator or superintendent of a correctional
21 facility; the inmate; a member of the inmate's family or the inmate's
22 attorney. The request shall be submitted in a manner and form
23 prescribed by the board.

24 d. At least five working days prior to commencing its review of a
25 request for a medical parole, the appropriate board panel shall notify
26 the appropriate sentencing court; county prosecutor or, if the matter
27 was prosecuted by the Attorney General, the Attorney General; and
28 any victim or member of the family of a victim entitled to notice
29 relating to a parole or the consideration of a parole under the
30 provisions of P.L.1979, c.441 (C.30:4-123.45 et seq.). The notice
31 shall be given in the manner prescribed by the board and shall contain
32 all such information and documentation relating to the medical
33 diagnosis prepared pursuant to subsection b. of this section as the
34 board shall deem appropriate and necessary.

35 Upon receipt of the notice, the sentencing court; county prosecutor
36 or Attorney General, as the case may be; the victim or member of the
37 family of the victim, as the case may be, shall have 10 working days
38 to review the notice and submit comments to the appropriate board
39 panel. If a recipient of the notice does not submit comments within
40 that 10-day period following the receipt of the notice, the panel may
41 presume that the recipient does not wish to submit comments and
42 proceed with its consideration of the request for medical parole. Any
43 comments provided by a recipient shall be delivered to the appropriate
44 board panel in the same manner or by the same method as notice was
45 given by the panel to that recipient.

46 The information contained in any notice given by a panel pursuant

1 to this subsection and the contents of any comments submitted by a
2 recipient in response thereto shall be confidential and shall not be
3 disclosed to any person who is not authorized to receive or review that
4 information or those comments.

5 Notice given under the provisions of this subsection shall be in lieu
6 of any other notice of parole consideration required under P.L.1979,
7 c.441 (C.30:4-123.45 et seq.).

8 Nothing in this subsection shall be construed to impair any party's
9 right to be heard pursuant to P.L.1979, c.441 (C.30:4-123.45 et seq.).

10 e. The appropriate board panel shall conduct its review of a request
11 for medical parole as expeditiously as possible.

12 The appropriate board panel shall provide written notice of its
13 decision to the sentencing court; the county prosecutor or Attorney
14 General, as the case may be; and any victim or member of a victim's
15 family given notice pursuant to subsection d. of this section.

16 f. Whenever an inmate is granted medical parole pursuant to this
17 section, the appropriate board shall require, as a condition precedent
18 to release, that the inmate's release plan include:

19 (1) identification of a community sponsor;

20 (2) verification of the availability of appropriate medical services
21 sufficient to meet the treatment requirements identified pursuant to
22 paragraph (4) of subsection b. of this section; and

23 (3) verification of appropriate housing which may include, but need
24 not be limited to, a hospital, hospice, nursing home facility or other
25 housing accommodation suitable to the inmate's medical condition,
26 disease or syndrome.

27 g. In addition to any conditions imposed pursuant to section 15 of
28 P.L.1979, c.441 (C.30:4-123.59), as a condition of release on medical
29 parole, the appropriate board panel may require an inmate to submit
30 to periodic medical diagnoses by a licensed physician.

31 h. If, after review of a medical diagnosis required under the
32 provisions of subsection g. of this section, the appropriate board panel
33 determines that a parolee released on medical parole is no longer so
34 debilitated or incapacitated by a terminal condition, disease or
35 syndrome as to be physically incapable of committing a crime, the
36 parolee shall be returned to confinement in an appropriate facility
37 designated by the Commissioner of Corrections.

38 A decision to return the parolee to confinement pursuant to this
39 subsection shall be rendered only after a hearing by the appropriate
40 board panel or by a hearing officer designated by the chairman of the
41 board. Nothing in this subsection shall be construed to limit the
42 authority of the board, an appropriate board panel or [any] parole
43 officer of the State Parole Board to address a violation of a condition
44 of parole pursuant to sections 16 through 21 of P.L.1979, c.441
45 (C.30:4-123.60 through 30:4-123.65).

46 i. The denial of a request for medical parole or the return of a
47 parolee to confinement under the provisions of subsection h. of this

1 section shall not preclude that inmate from being considered for parole
2 pursuant to subsection a. of section 7 of P.L.1979, c.441
3 (C.30:4-123.51).
4 (cf: P.L.1997, c.214, s.1).

5

6 8. Section 1 of P.L.1994, c.135 (C.30:4-123.53a) is amended to
7 read as follows:

8 1. a. As used in this act: "Prosecutor" means the county
9 prosecutor of the county in which the defendant was convicted unless
10 the matter was prosecuted by the Attorney General, in which case
11 "prosecutor" means the Attorney General.

12 "Office of Victim Witness Advocacy" means the Office of Victim
13 Witness Advocacy of the county in which the defendant was
14 convicted.

15 b. Notwithstanding any other provision of law to the contrary, the
16 [Department of Corrections] State ²[Parole Board] ² shall provide
17 written notice to the prosecutor of the anticipated release from
18 incarceration in a county or State penal institution or the Adult
19 Diagnostic and Treatment Center of a person convicted of murder;
20 manslaughter; aggravated sexual assault; sexual assault; aggravated
21 assault; aggravated criminal sexual contact; kidnaping pursuant to
22 paragraph (2) of subsection c. of N.J.S.2C:13-1; endangering the
23 welfare of a child by engaging in sexual conduct which would impair
24 or debauch the morals of the child pursuant to subsection a. of
25 N.J.S.2C:24-4; endangering the welfare of a child pursuant to
26 paragraph (4) of subsection b. of N.J.S.2C:24-4; luring or enticing
27 pursuant to section 1 of P.L.1993, c.291 (C.2C:13-6); any other
28 offense involving serious bodily injury or an attempt to commit any of
29 the aforementioned offenses. ²In cases involving a release on parole,
30 the State Parole Board shall provide the notice required by this
31 subsection. In all other cases, including but not limited to release
32 upon expiration of sentence or release from incarceration due to a
33 change in sentence, the Department of Corrections shall provide the
34 notice required by this subsection.²

35 c. Notwithstanding any other provision of law to the contrary, the
36 Juvenile Justice Commission established pursuant to section 2 of
37 P.L.1995, c.284 (C.52:17B-170) shall provide written notice to the
38 prosecutor of the anticipated release from incarceration of a juvenile
39 adjudicated delinquent on the basis of an offense which, if committed
40 by an adult, would constitute murder; manslaughter; aggravated sexual
41 assault; sexual assault; aggravated assault; aggravated criminal sexual
42 contact; kidnaping pursuant to paragraph (2) of subsection c. of
43 N.J.S.2C:13-1; endangering the welfare of a child by engaging in
44 sexual conduct which would impair or debauch the morals of the child
45 pursuant to subsection a. of N.J.S.2C:24-4; endangering the welfare
46 of a child pursuant to paragraph (4) of subsection b. of N.J.S.2C:24-4;

1 luring or enticing pursuant to section 1 of P.L.1993, c.291
2 (C.2C:13-6); any other offense involving serious bodily injury or an
3 attempt to commit any of the aforementioned offenses.

4 d. If available, the notice shall be provided to the prosecutor 90
5 days before the inmate's anticipated release; provided however, the
6 notice shall be provided at least 30 days before release. The notice
7 shall include the person's name, identifying factors, offense history,
8 and anticipated future residence. The prosecutor shall notify the
9 Office of Victim and Witness Advocacy and that office shall use any
10 reasonable means available to them to notify the victim of the
11 anticipated release unless the victim has requested not to be notified.

12 e. Upon receipt of notice, the prosecutor shall provide notice to the
13 law enforcement agency responsible for the municipality where the
14 inmate will reside, the municipality in which any victim resides, and
15 such other State and local law enforcement agencies as appropriate for
16 public safety.

17 (cf: P.L.1995, c.280, s.37)

18

19 ²9. Section 3 of P.L.1994, c.131 (C.30:4-6.1) is amended to read
20 as follows:

21 3. a. The chief executive officer of the institution in which an
22 inmate is confined shall notify the prosecutor of the release of an
23 inmate, unless the inmate is released on parole, in which case the State
24 Parole Board shall notify the prosecutor of the release. The
25 notification shall occur as follows:

26 (1) Written notification shall be provided 90 days before the
27 inmate's anticipated release whenever possible, but in no event fewer
28 than 30 days before release if such release is due to the expiration of
29 the inmate's maximum term or is authorized by the State Parole Board
30 or order of the Governor upon commutation of a sentence of
31 incarceration;

32 (2) Immediate telephone notification shall be provided whenever
33 possible, followed by written notification within 48 hours, of pre-trial
34 release, escape from custody or return to custody following an escape
35 of a defendant detained or incarcerated in a county or State penal
36 institution, including the Adult Diagnostic and Treatment Center; and

37 (3) Advance written notification shall be provided whenever
38 possible of any other release of an inmate from custody, including
39 placement in an Intensive Supervision Program or other alternative
40 disposition. If advance notification is not provided, notification shall
41 be provided within 48 hours following release. All notice provided
42 pursuant to this section shall include the inmate's name, identifying
43 information, and anticipated residence.²

44 (cf: P.L.1994, c.131, s.3)

1 ²[9.] 10.² Section 15 of P.L.1979, c.441 (C.30:4-123.59) is
2 amended to read as follows:

3 15. a. Each adult parolee shall at all times remain in the legal
4 custody of the Commissioner of Corrections and under the supervision
5 of the State Parole Board and each juvenile parolee shall at all times
6 remain in the legal custody of the Juvenile Justice Commission
7 established pursuant to section 2 of P.L.1995, c.284 (C.52:17B-170)
8 ²[and under the supervision of the State Parole Board]², except that
9 the Commissioner of Corrections or the Executive Director of the
10 Juvenile Justice Commission, after providing notice to the Attorney
11 General, may consent to the supervision of a parolee by the federal
12 government pursuant to the Witness Security Reform Act,
13 Pub.L.98-473 (18 U.S.C. s.3251 et seq.). ²[A] An adult² parolee,
14 except those under the Witness Security Reform Act, shall remain
15 under the supervision of the [Bureau of Parole] State Parole Board
16 and in the legal custody of the Department of Corrections ²[or], and
17 a juvenile parolee, except those under the Witness Security Reform
18 Act, shall remain under the supervision of² the Juvenile Justice
19 Commission, as appropriate, in accordance with the policies and rules
20 of the board.

21 b. Each parolee shall agree, as evidenced by his signature to abide
22 by specific conditions of parole established by the appropriate board
23 panel which shall be enumerated in writing in a certificate of parole
24 and shall be given to the parolee upon release. Such conditions shall
25 include, among other things, a requirement that the parolee conduct
26 himself in society in compliance with all laws and refrain from
27 committing any crime, a requirement that the parolee will not own or
28 possess any firearm as defined in subsection f. of N.J.S.2C:39-1 or any
29 other weapon enumerated in subsection r. of N.J.S.2C:39-1, a
30 requirement that the parolee refrain from the use, possession or
31 distribution of a controlled dangerous substance, controlled substance
32 analog or imitation controlled dangerous substance as defined in
33 N.J.S.2C:35-2 and N.J.S.2C:35-11, a requirement that the parolee
34 obtain permission from his parole officer for any change in his
35 residence, and a requirement that the parolee report at reasonable
36 intervals to an assigned parole officer. In addition, based on prior
37 history of the parolee or information provided by a victim or a member
38 of the family of a murder victim, the member or board panel certifying
39 parole release pursuant to section 11 of P.L.1979, c.441
40 (C.30:4-123.55) may impose any other specific conditions of parole
41 deemed reasonable in order to reduce the likelihood of recurrence of
42 criminal or delinquent behavior. Such special conditions may include,
43 among other things, a requirement that the parolee make full or partial
44 restitution, the amount of which restitution shall be set by the
45 sentencing court upon request of the board. In addition, the member
46 or board panel certifying parole release may, giving due regard to a

1 victim's request, impose a special condition that the parolee have no
2 contact with the victim, which special condition may include, but need
3 not be limited to, restraining the parolee from entering the victim's
4 residence, place of employment, business or school, and from
5 harassing or stalking the victim or victim's relatives in any way.

6 c. The appropriate board panel may in writing relieve a parolee of
7 any parole conditions, and may permit a parolee to reside outside the
8 State pursuant to the provisions of the Uniform Act for Out-of-State
9 Parolee Supervision (N.J.S.2A:168-14 et seq.), the Interstate Compact
10 on Juveniles, P.L.1955, c.55 (C.9:23-1 to 9:23-4), and, with the
11 consent of the Commissioner of the Department of Corrections or the
12 Executive Director of the Juvenile Justice Commission after providing
13 notice to the Attorney General, the federal Witness Security Reform
14 Act, if satisfied that such change will not result in a substantial
15 likelihood that the parolee will commit an offense which would be a
16 crime under the laws of this State. The appropriate board panel may
17 revoke such permission, except in the case of a parolee under the
18 Witness Security Reform Act, or reinstate relieved parole conditions
19 for any period of time during which a parolee is under its jurisdiction.

20 d. The appropriate board panel may parole an inmate to any
21 residential facility funded in whole or in part by the State if the inmate
22 would not otherwise be released pursuant to section 9 of P.L.1979,
23 c.441 (C.30:4-123.53) without such placement. But if the residential
24 facility provides treatment for mental illness or mental retardation, the
25 board panel only may parole the inmate to the facility pursuant to the
26 laws and admissions policies that otherwise govern the admission of
27 persons to that facility, and the facility shall have the authority to
28 discharge the inmate according to the laws and policies that otherwise
29 govern the discharge of persons from the facility, on 10 days' prior
30 notice to the board panel. The board panel shall acknowledge receipt
31 of this notice in writing prior to the discharge. Upon receipt of the
32 notice the board panel shall resume jurisdiction over the inmate.

33 e. [The assigned parole officer] Parole officers shall provide
34 assistance to the parolee in obtaining employment, education or
35 vocational training or in meeting other obligations to assure the
36 parolees compliance with meeting legal requirements related to sex
37 offender notification, address changes and participation in
38 rehabilitation programs as directed by the assigned parole officer.

39 f. The board panel on juvenile commitments and the assigned
40 parole officer shall insure that the least restrictive available alternative
41 is used for any juvenile parolee.

42 g. If the board has granted parole to any inmate from a State
43 correctional facility or juvenile facility and the court has imposed a fine
44 on such inmate, the appropriate board panel shall release such inmate
45 on condition that the parolee make specified fine payments to the
46 ²[Bureau of] State² Parole ²Board² or the Juvenile Justice

1 Commission. For violation of such conditions, or for violation of a
2 special condition requiring restitution, parole may be revoked only for
3 refusal or failure to make a good faith effort to make such payment.

4 h. Upon collection of the fine the same shall be paid over by the
5 Department of Corrections or by the Juvenile Justice Commission to
6 the State Treasury.

7 (cf: P.L.1997, c.218).

8
9 ²[10.] 11.² Section 16 of P.L.1979, c.441 (C.30:4-123.60) is
10 amended to read as follows:

11 16. a. Any parolee who violates a condition of parole may be
12 subject to an order pursuant to section 17 of P.L.1979, c.441
13 (C.30:4-123.61) providing for one or more of the following: (1) That
14 he be required to conform to one or more additional conditions of
15 parole; (2) That he forfeit all or a part of commutation time credits
16 granted pursuant to R.S.30:4-140.

17 b. Any parolee who has seriously or persistently violated the
18 conditions of his parole, may have his parole revoked and may be
19 returned to custody pursuant to sections 18 and 19 of P.L.1979, c.441
20 (C.30:4-123.62 and 30:4-123.63). The board shall be notified
21 immediately upon the arrest or indictment of a parolee or upon the
22 filing of charges that the parolee committed an act which, if committed
23 by an adult, would constitute a crime. The board shall not revoke
24 parole on the basis of new charges which have not resulted in a
25 disposition at the trial level except that upon application by the
26 prosecuting authority, the Juvenile Justice Commission established
27 pursuant to section 2 of P.L.1995, c.284 (C.52:17B-170) or the
28 ²[Chief] Director² of the [Bureau] State Parole Board's Division of
29 Parole, the chairman of the board or his designee may at any time
30 detain the parolee and commence revocation proceedings pursuant to
31 sections 18 and 19 of P.L.1979, c.441 (C.30:4-123.62 and
32 30:4-123.63) when the chairman determines that the new charges
33 against the parolee are of a serious nature and it appears that the
34 parolee otherwise poses a danger to the public safety. In such cases,
35 a parolee shall be informed that, if he testifies at the revocation
36 proceedings, his testimony and the evidence derived there from shall
37 not be used against him in a subsequent criminal prosecution or
38 delinquency adjudication.

39 c. Any parolee who is convicted of a crime or adjudicated
40 delinquent for an act which, if committed by an adult, would constitute
41 a crime, committed while on parole shall have his parole revoked and
42 shall be returned to custody unless the parolee demonstrates, by clear
43 and convincing evidence at a hearing pursuant to section 19 of
44 P.L.1979, c.441 (C.30:4-123.63), that good cause exists why he
45 should not be returned to confinement.

46 (cf: P.L.1995, c.280, s.40)

1 ²[11.] 12.² Section 18 of P.L.1979, c.441 (C.30:4-123.62) is
2 amended to read as follows:

3 18. a. (1) If a parole officer assigned to supervise a parolee has
4 probable cause to believe that the parolee has violated a condition of
5 his parole, such violation being a basis for return to custody pursuant
6 to subsection b. of section 16 of P.L.1979, c.441 (C.30:4-123.60), a
7 designated representative of the chairman of the board may issue a
8 warrant for the arrest of the parolee if evidence indicates that the
9 parolee may not appear at the preliminary hearing or if the parolee
10 poses a danger to the public safety. With the parole warrant, a law
11 enforcement officer may apprehend the delinquent parolee.

12 (2) If a parole officer assigned to supervise a parolee has probable
13 cause to believe that the parolee has committed a crime, has
14 committed an act or is about to commit an act which, if committed by
15 an adult, would constitute a crime, is about to commit a crime or is
16 about to flee the jurisdiction, which violation is a basis for return to
17 custody pursuant to subsection b. of section 16 of P.L.1979, c.441
18 (C.30:4-123.60), and the situation is one of immediate emergency that
19 cannot await the issuance of a warrant by a designated representative,
20 the parole officer, by the parole officer's own warrant, may apprehend
21 the parolee and cause his detention in a suitable facility designated by
22 the Department of Corrections or the Juvenile Justice Commission
23 established pursuant to section 2 of P.L.1995, c.284 (C.52:17B-170),
24 as appropriate, or cause the parolee's confinement in an appropriate
25 institution pending return to a facility designated by the Department
26 of Corrections or the Juvenile Justice Commission, as appropriate, to
27 await the conduction of a preliminary hearing. The warrant shall be in
28 the form prescribed, as appropriate, by the Juvenile Justice
29 Commission or by the ~~]~~Bureau of Parole and approved by the
30 ~~Department of Corrections]~~State Parole Board and, when signed by
31 the officer in charge of the case, shall be a sufficient instrument and
32 authority to all peace officers to assist in the apprehension of the
33 parolee. It shall also be sufficient authority for detention of the
34 parolee in a suitable facility, to await the conduction of the preliminary
35 hearing. Upon enforcement of the warrant, the appropriate board panel
36 shall be promptly notified. No parolee held in custody on a parole
37 warrant shall be entitled to release on bail.

38 b. A parolee retaken under this section shall within 14 days be
39 granted a preliminary hearing to be conducted by a hearing officer not
40 previously involved in the case, unless the parolee ²[or],² the hearing
41 officer ²or the parole officer² requests postponement of the
42 preliminary hearing, which may be granted by the appropriate board
43 panel for good cause, but in no event shall such postponement, if
44 requested by the hearing officer ²or the parole officer², exceed 14
45 days.

46 c. The preliminary hearing shall be for the purpose of determining:

1 (1) Whether there is probable cause to believe that the parolee
2 violated a condition of his parole being the basis for return to custody
3 pursuant to subsection b. of section 16 of P.L.1979, c.441
4 (C.30:4-123.60), and

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

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

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

10 (2) The time, date, place and circumstances of the alleged
11 violation;

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

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

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

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

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

21 f. If the evidence presented at the preliminary hearing does not
22 support a finding of probable cause to believe that the parolee has
23 violated a condition of his parole, such violation being a basis for
24 return to custody pursuant to subsection b. of section 16 of P.L.1979,
25 c.441 (C.30:4-123.60), or if it is otherwise determined that revocation
26 is not desirable, the hearing officer may, in accordance with the
27 provisions of subsection a. of section 16 of P.L.1979, c.441
28 (C.30:4-123.60) and section 17 of P.L.1979, c.441 (C.30:4-123.61),
29 issue an order modifying parole and releasing the offender, or
30 continuing parole and releasing the offender.

31 g. If the evidence presented at the preliminary hearing supports a
32 finding of probable cause to believe that the parolee has violated a
33 condition of his parole, the hearing officer shall determine whether the
34 parolee shall be retained in custody or released on specific conditions
35 pending action by the appropriate board panel.

36 h. Conviction of a crime committed while on parole or adjudication
37 of delinquency for an act which, if committed by an adult, would
38 constitute a crime shall be deemed to constitute probable cause to
39 believe that the parolee has violated a condition of parole.

40 (cf: P.L.1995, c.280, s.42).

41

42 ¹[12. (New section) Notwithstanding any other provision of law
43 to the contrary, a person may serve as both the Commissioner of
44 Corrections and the Chairman of the State Parole Board; except that
45 the person shall receive only the salary of the Commissioner of
46 Corrections.]¹

1 ¹[13.] ²[12.1] 13.² Section 3 of P.L.1993, c.246 (C.43:16A-1.4)
2 is amended to read as follows:

3 3. If the Board of Trustees of the Police and Fireman's Retirement
4 System of New Jersey makes a determination, pursuant to section 9 of
5 P.L.1989, c.204 (C.43:16A-1.2), that the parole officers employed by
6 the [Bureau of Parole in the Department of Corrections]State Parole
7 Board are eligible for membership in the Police and Firemen's
8 Retirement System pursuant to section 1 of P.L.1944, c.255
9 (C.43:16A-1), the enrollment of those parole officers shall occur no
10 earlier that one year after the effective date of this section pursuant to
11 P.L.1993, c.246 (C.43:16A-1.4 et al.).
12 (cf: P.L.1993, c.246, s.3).

13

14 ¹[14.] ²[13.1] 14.² Section 1 of P.L.1968, c.427 (C.2A:154-4) is
15 amended to read as follows:

16 1. All correction officers of the State of New Jersey, parole
17 officers employed by the [Bureau of Parole in the Department of
18 Corrections] State Parole Board and investigators in the Department
19 of Corrections, who have been or who may hereafter be appointed or
20 employed, shall, by virtue of such appointment or employment and in
21 addition to any other power or authority, be empowered to act as
22 officers for the detection, apprehension, arrest and conviction of
23 offenders against the law.
24 (cf: P.L.1993, c.246, s.1).

25

26 ¹[15.] ²[14.1] 15.² N.J.S.2C:39-6 is amended to read as follows:

27 2C:39-6. a. Provided a person complies with the requirements of
28 subsection j. of this section, N.J.S.2C:39-5 does not apply to:

29 (1) Members of the Armed Forces of the United States or of the
30 National Guard while actually on duty, or while traveling between
31 places of duty and carrying authorized weapons in the manner
32 prescribed by the appropriate military authorities;

33 (2) Federal law enforcement officers, and any other federal officers
34 and employees required to carry firearms in the performance of their
35 official duties;

36 (3) Members of the State Police and, under conditions prescribed
37 by the superintendent, members of the Marine Law Enforcement
38 Bureau of the Division of State Police;

39 (4) A sheriff, undersheriff, sheriff's officer, county prosecutor,
40 assistant prosecutor, prosecutor's detective or investigator, deputy
41 attorney general or State investigator employed by the Division of
42 Criminal Justice of the Department of Law and Public Safety,
43 investigator employed by the State Commission of Investigation,
44 inspector of the Alcoholic Beverage Control Enforcement Bureau of
45 the Division of State Police in the Department of Law and Public
46 Safety authorized to carry such weapons by the Superintendent of

- 1 State Police, State park ranger, or State conservation officer;
- 2 (5) A prison or jail warden of any penal institution in this State or
3 his deputies, or an employee of the Department of Corrections
4 engaged in the interstate transportation of convicted offenders, while
5 in the performance of his duties, and when required to possess the
6 weapon by his superior officer, or a correction officer or keeper of a
7 penal institution in this State at all times while in the State of New
8 Jersey, provided he annually passes an examination approved by the
9 superintendent testing his proficiency in the handling of firearms;
- 10 (6) A civilian employee of the United States Government under the
11 supervision of the commanding officer of any post, camp, station, base
12 or other military or naval installation located in this State who is
13 required, in the performance of his official duties, to carry firearms,
14 and who is authorized to carry such firearms by said commanding
15 officer, while in the actual performance of his official duties;
- 16 (7) (a) A regularly employed member, including a detective, of the
17 police department of any county or municipality, or of any State,
18 interstate, municipal or county park police force or boulevard police
19 force, at all times while in the State of New Jersey;
- 20 (b) A special law enforcement officer authorized to carry a weapon
21 as provided in subsection b. of section 7 of P.L.1985, c.439
22 (C.40A:14-146.14);
- 23 (c) An airport security officer or a special law enforcement officer
24 appointed by the governing body of any county or municipality, except
25 as provided in subsection b. of this section, or by the commission,
26 board or other body having control of a county park or airport or
27 boulevard police force, while engaged in the actual performance of his
28 official duties and when specifically authorized by the governing body
29 to carry weapons;
- 30 (8) A full-time, paid member of a paid or part-paid fire department
31 or force of any municipality who is assigned full-time or part-time to
32 an arson investigation unit created pursuant to section 1 of P.L.1981,
33 c.409 (C.40A:14-7.1) or to the county arson investigation unit in the
34 county prosecutor's office, while either engaged in the actual
35 performance of arson investigation duties or while actually on call to
36 perform arson investigation duties and when specifically authorized by
37 the governing body or the county prosecutor, as the case may be, to
38 carry weapons. Prior to being permitted to carry a firearm, such a
39 member shall take and successfully complete a firearms training course
40 administered by the Police Training Commission pursuant to P.L.1961,
41 c.56 (C.52:17B-66 et seq.), and shall annually qualify in the use of a
42 revolver or similar weapon prior to being permitted to carry a firearm;
- 43 (9) A juvenile corrections officer in the employment of the Juvenile
44 Justice Commission established pursuant to section 2 of P.L.1995,
45 c.284 (C.52:17B-170) subject to the regulations promulgated by the
46 commission.

1 b. Subsections a., b. and c. of N.J.S.2C:39-5 do not apply to:

2 (1) A law enforcement officer employed by a governmental agency
3 outside of the State of New Jersey while actually engaged in his
4 official duties, provided, however, that he has first notified the
5 superintendent or the chief law enforcement officer of the municipality
6 or the prosecutor of the county in which he is engaged; or

7 (2) A licensed dealer in firearms and his registered employees
8 during the course of their normal business while traveling to and from
9 their place of business and other places for the purpose of
10 demonstration, exhibition or delivery in connection with a sale,
11 provided, however, that the weapon is carried in the manner specified
12 in subsection g. of this section.

13 c. Provided a person complies with the requirements of subsection
14 j. of this section, subsections b. and c. of N.J.S.2C:39-5 do not apply
15 to:

16 (1) A special agent of the Division of Taxation who has passed an
17 examination in an approved police training program testing proficiency
18 in the handling of any firearm which he may be required to carry, while
19 in the actual performance of his official duties and while going to or
20 from his place of duty, or any other police officer, while in the actual
21 performance of his official duties;

22 (2) A State deputy conservation officer or a full-time employee of
23 the Division of Parks and Forestry having the power of arrest and
24 authorized to carry weapons, while in the actual performance of his
25 official duties;

26 (3) (Deleted by amendment, P.L.1986, c.150.)

27 (4) A court attendant serving as such under appointment by the
28 sheriff of the county or by the judge of any municipal court or other
29 court of this State, while in the actual performance of his official
30 duties;

31 (5) A guard in the employ of any railway express company,
32 banking or building and loan or savings and loan institution of this
33 State, while in the actual performance of his official duties;

34 (6) A member of a legally recognized military organization while
35 actually under orders or while going to or from the prescribed place
36 of meeting and carrying the weapons prescribed for drill, exercise or
37 parade;

38 (7) An officer of the Society for the Prevention of Cruelty to
39 Animals, while in the actual performance of his duties;

40 (8) An employee of a public utilities corporation actually engaged
41 in the transportation of explosives;

42 (9) A railway policeman, except a transit police officer of the New
43 Jersey Transit Police Department, at all times while in the State of
44 New Jersey, provided that he has passed an approved police academy
45 training program consisting of at least 280 hours. The training
46 program shall include, but need not be limited to, the handling of

1 firearms, community relations, and juvenile relations;

2 (10) A campus police officer appointed under P.L.1970, c.211
3 (C.18A:6-4.2 et seq.) at all times. Prior to being permitted to carry a
4 firearm, a campus police officer shall take and successfully complete
5 a firearms training course administered by the Police Training
6 Commission, pursuant to P.L.1961, c.56 (C.52:17B-66 et seq.), and
7 shall annually qualify in the use of a revolver or similar weapon prior
8 to being permitted to carry a firearm;

9 (11) A person who has not been convicted of a crime under the
10 laws of this State or under the laws of another state or the United
11 States, and who is employed as a full-time security guard for a nuclear
12 power plant under the license of the Nuclear Regulatory Commission,
13 while in the actual performance of his official duties;

14 (12) A transit police officer of the New Jersey Transit Police
15 Department, at all times while in the State of New Jersey, provided the
16 officer has satisfied the training requirements of the Police Training
17 Commission, pursuant to subsection c. of section 2 of P.L.1989, c.291
18 (C.27:25-15.1);

19 (13) A parole officer employed by the [Bureau of Parole in the
20 Department of Corrections] State Parole Board at all times. Prior to
21 being permitted to carry a firearm, a parole officer shall take and
22 successfully complete a basic course for regular police officer training
23 administered by the Police Training Commission, pursuant to
24 P.L.1961, c.56 (C.52:17B-66 et seq.), and shall annually qualify in the
25 use of a revolver or similar weapon prior to being permitted to carry
26 a firearm;

27 (14) A Human Services police officer at all times while in the State
28 of New Jersey, as authorized by the Commissioner of Human Services;

29 (15) A person or employee of any person who, pursuant to and as
30 required by a contract with a governmental entity, supervises or
31 transports persons charged with or convicted of an offense; or

32 (16) A housing authority police officer appointed under P.L.1997,
33 c.210 (C.40A:14-146.19 et al.) at all times while in the State of New
34 Jersey.

35 d. (1) Subsections c. and d. of N.J.S.2C:39-5 do not apply to
36 antique firearms, provided that such antique firearms are unloaded or
37 are being fired for the purposes of exhibition or demonstration at an
38 authorized target range or in such other manner as has been approved
39 in writing by the chief law enforcement officer of the municipality in
40 which the exhibition or demonstration is held, or if not held on
41 property under the control of a particular municipality, the
42 superintendent.

43 (2) Subsection a. of N.J.S.2C:39-3 and subsection d. of
44 N.J.S.2C:39-5 do not apply to an antique cannon that is capable of
45 being fired but that is unloaded and immobile, provided that the
46 antique cannon is possessed by (a) a scholastic institution, a museum,

1 a municipality, a county or the State, or (b) a person who obtained a
2 firearms purchaser identification card as specified in N.J.S.2C:58-3.

3 (3) Subsection a. of N.J.S.2C:39-3 and subsection d. of
4 N.J.S.2C:39-5 do not apply to an unloaded antique cannon that is
5 being transported by one eligible to possess it, in compliance with
6 regulations the superintendent may promulgate, between its permanent
7 location and place of purchase or repair.

8 (4) Subsection a. of N.J.S.2C:39-3 and subsection d. of
9 N.J.S.2C:39-5 do not apply to antique cannons that are being loaded
10 or fired by one eligible to possess an antique cannon, for purposes of
11 exhibition or demonstration at an authorized target range or in the
12 manner as has been approved in writing by the chief law enforcement
13 officer of the municipality in which the exhibition or demonstration is
14 held, or if not held on property under the control of a particular
15 municipality, the superintendent, provided that performer has given at
16 least 30 days' notice to the superintendent.

17 (5) Subsection a. of N.J.S.2C:39-3 and subsection d. of
18 N.J.S.2C:39-5 do not apply to the transportation of unloaded antique
19 cannons directly to or from exhibitions or demonstrations authorized
20 under paragraph (4) of subsection d. of this section, provided that the
21 transportation is in compliance with safety regulations the
22 superintendent may promulgate. Nor do those subsections apply to
23 transportation directly to or from exhibitions or demonstrations
24 authorized under the law of another jurisdiction, provided that the
25 superintendent has been given 30 days' notice and that the
26 transportation is in compliance with safety regulations the
27 superintendent may promulgate.

28 e. Nothing in subsections b., c. and d. of N.J.S.2C:39-5 shall be
29 construed to prevent a person keeping or carrying about his place of
30 business, residence, premises or other land owned or possessed by
31 him, any firearm, or from carrying the same, in the manner specified
32 in subsection g. of this section, from any place of purchase to his
33 residence or place of business, between his dwelling and his place of
34 business, between one place of business or residence and another when
35 moving, or between his dwelling or place of business and place where
36 such firearms are repaired, for the purpose of repair. For the purposes
37 of this section, a place of business shall be deemed to be a fixed
38 location.

39 f. Nothing in subsections b., c. and d. of N.J.S.2C:39-5 shall be
40 construed to prevent:

41 (1) A member of any rifle or pistol club organized in accordance
42 with the rules prescribed by the National Board for the Promotion of
43 Rifle Practice, in going to or from a place of target practice, carrying
44 such firearms as are necessary for said target practice, provided that
45 the club has filed a copy of its charter with the superintendent and
46 annually submits a list of its members to the superintendent and

1 provided further that the firearms are carried in the manner specified
2 in subsection g. of this section;

3 (2) A person carrying a firearm or knife in the woods or fields or
4 upon the waters of this State for the purpose of hunting, target
5 practice or fishing, provided that the firearm or knife is legal and
6 appropriate for hunting or fishing purposes in this State and he has in
7 his possession a valid hunting license, or, with respect to fresh water
8 fishing, a valid fishing license;

9 (3) A person transporting any firearm or knife while traveling:

10 (a) Directly to or from any place for the purpose of hunting or
11 fishing, provided the person has in his possession a valid hunting or
12 fishing license; or

13 (b) Directly to or from any target range, or other authorized place
14 for the purpose of practice, match, target, trap or skeet shooting
15 exhibitions, provided in all cases that during the course of the travel
16 all firearms are carried in the manner specified in subsection g. of this
17 section and the person has complied with all the provisions and
18 requirements of Title 23 of the Revised Statutes and any amendments
19 thereto and all rules and regulations promulgated thereunder; or

20 (c) In the case of a firearm, directly to or from any exhibition or
21 display of firearms which is sponsored by any law enforcement agency,
22 any rifle or pistol club, or any firearms collectors club, for the purpose
23 of displaying the firearms to the public or to the members of the
24 organization or club, provided, however, that not less than 30 days
25 prior to the exhibition or display, notice of the exhibition or display
26 shall be given to the Superintendent of the State Police by the
27 sponsoring organization or club, and the sponsor has complied with
28 such reasonable safety regulations as the superintendent may
29 promulgate. Any firearms transported pursuant to this section shall be
30 transported in the manner specified in subsection g. of this section;

31 (4) A person from keeping or carrying about a private or
32 commercial aircraft or any boat, or from transporting to or from such
33 vessel for the purpose of installation or repair a visual distress
34 signalling device approved by the United States Coast Guard.

35 g. All weapons being transported under paragraph (2) of
36 subsection b., subsection e., or paragraph (1) or (3) of subsection f. of
37 this section shall be carried unloaded and contained in a closed and
38 fastened case, gunbox, securely tied package, or locked in the trunk of
39 the automobile in which it is being transported, and in the course of
40 travel shall include only such deviations as are reasonably necessary
41 under the circumstances.

42 h. Nothing in subsection d. of N.J.S.2C:39-5 shall be construed to
43 prevent any employee of a public utility, as defined in R.S.48:2-13,
44 doing business in this State or any United States Postal Service
45 employee, while in the actual performance of duties which specifically
46 require regular and frequent visits to private premises, from

1 possessing, carrying or using any device which projects, releases or
2 emits any substance specified as being noninjurious to canines or other
3 animals by the Commissioner of Health and Senior Services and which
4 immobilizes only on a temporary basis and produces only temporary
5 physical discomfort through being vaporized or otherwise dispensed
6 in the air for the sole purpose of repelling canine or other animal
7 attacks.

8 The device shall be used solely to repel only those canine or other
9 animal attacks when the canines or other animals are not restrained in
10 a fashion sufficient to allow the employee to properly perform his
11 duties.

12 Any device used pursuant to this act shall be selected from a list of
13 products, which consist of active and inert ingredients, permitted by
14 the Commissioner of Health and Senior Services.

15 i. Nothing in N.J.S.2C:39-5 shall be construed to prevent any
16 person who is 18 years of age or older and who has not been convicted
17 of a felony, from possession for the purpose of personal self-defense
18 of one pocket-sized device which contains and releases not more than
19 three-quarters of an ounce of chemical substance not ordinarily
20 capable of lethal use or of inflicting serious bodily injury, but rather,
21 is intended to produce temporary physical discomfort or disability
22 through being vaporized or otherwise dispensed in the air. Any person
23 in possession of any device in violation of this subsection shall be
24 deemed and adjudged to be a disorderly person, and upon conviction
25 thereof, shall be punished by a fine of not less than \$100.00.

26 j. A person shall qualify for an exemption from the provisions of
27 N.J.S.2C:39-5, as specified under subsections a. and c. of this section,
28 if the person has satisfactorily completed a firearms training course
29 approved by the Police Training Commission.

30 Such exempt person shall not possess or carry a firearm until the
31 person has satisfactorily completed a firearms training course and shall
32 annually qualify in the use of a revolver or similar weapon. For
33 purposes of this subsection, a "firearms training course" means a
34 course of instruction in the safe use, maintenance and storage of
35 firearms which is approved by the Police Training Commission. The
36 commission shall approve a firearms training course if the
37 requirements of the course are substantially equivalent to the
38 requirements for firearms training provided by police training courses
39 which are certified under section 6 of P.L.1961, c.56 (C.52:17B-71).
40 A person who is specified in paragraph (1), (2), (3) or (6) of
41 subsection a. of this section shall be exempt from the requirements of
42 this subsection.

43 k. Nothing in subsection d. of N.J.S.2C:39-5 shall be construed to
44 prevent any financial institution, or any duly authorized personnel of
45 the institution, from possessing, carrying or using for the protection of
46 money or property, any device which projects, releases or emits tear

1 gas or other substances intended to produce temporary physical
2 discomfort or temporary identification.

3 1. Nothing in subsection b. of N.J.S.2C:39-5 shall be construed to
4 prevent a law enforcement officer who retired in good standing,
5 including a retirement because of a disability pursuant to section 6 of
6 P.L.1944, c.255 (C.43:16A-6), section 7 of P.L.1944, c.255
7 (C.43:16A-7), section 1 of P.L.1989, c.103 (C.43:16A-6.1) or any
8 substantially similar statute governing the disability retirement of
9 federal law enforcement officers, provided the officer was a regularly
10 employed, full-time law enforcement officer for an aggregate of five
11 or more years prior to his disability retirement and further provided
12 that the disability which constituted the basis for the officer's
13 retirement did not involve a certification that the officer was mentally
14 incapacitated for the performance of his usual law enforcement duties
15 and any other available duty in the department which his employer was
16 willing to assign to him or does not subject that retired officer to any
17 of the disabilities set forth in subsection c. of N.J.S.2C:58-3 which
18 would disqualify the retired officer from possessing or carrying a
19 firearm, who semi-annually qualifies in the use of the handgun he is
20 permitted to carry in accordance with the requirements and procedures
21 established by the Attorney General pursuant to subsection j. of this
22 section and pays the actual costs associated with those semi-annual
23 qualifications, who is less than 70 years of age, and who was regularly
24 employed as a full-time member of the State Police; a full-time
25 member of an interstate police force; a full-time member of a county
26 or municipal police department in this State; a full-time member of a
27 State law enforcement agency; a full-time sheriff, undersheriff or
28 sheriff's officer of a county of this State; a full-time State or county
29 corrections officer; a full-time county park police officer; a full-time
30 county prosecutor's detective or investigator; or a full-time federal law
31 enforcement officer from carrying a handgun in the same manner as
32 law enforcement officers exempted under paragraph (7) of subsection
33 a. of this section under the conditions provided herein:

34 (1) The retired law enforcement officer, within six months after
35 retirement, shall make application in writing to the Superintendent of
36 State Police for approval to carry a handgun for one year. An
37 application for annual renewal shall be submitted in the same manner.

38 (2) Upon receipt of the written application of the retired law
39 enforcement officer, the superintendent shall request a verification of
40 service from the chief law enforcement officer of the organization in
41 which the retired officer was last regularly employed as a full-time law
42 enforcement officer prior to retiring. The verification of service shall
43 include:

44 (a) The name and address of the retired officer;

45 (b) The date that the retired officer was hired and the date that the
46 officer retired;

1 (c) A list of all handguns known to be registered to that officer;

2 (d) A statement that, to the reasonable knowledge of the chief law
3 enforcement officer, the retired officer is not subject to any of the
4 restrictions set forth in subsection c. of N.J.S.2C:58-3; and

5 (e) A statement that the officer retired in good standing.

6 (3) If the superintendent approves a retired officer's application or
7 reapplication to carry a handgun pursuant to the provisions of this
8 subsection, the superintendent shall notify in writing the chief law
9 enforcement officer of the municipality wherein that retired officer
10 resides. In the event the retired officer resides in a municipality which
11 has no chief law enforcement officer or law enforcement agency, the
12 superintendent shall maintain a record of the approval.

13 (4) The superintendent shall issue to an approved retired officer an
14 identification card permitting the retired officer to carry a handgun
15 pursuant to this subsection. This identification card shall be valid for
16 one year from the date of issuance and shall be valid throughout the
17 State. The identification card shall not be transferable to any other
18 person. The identification card shall be carried at all times on the
19 person of the retired officer while the retired officer is carrying a
20 handgun. The retired officer shall produce the identification card for
21 review on the demand of any law enforcement officer or authority.

22 (5) Any person aggrieved by the denial of the superintendent of
23 approval for a permit to carry a handgun pursuant to this subsection
24 may request a hearing in the Superior Court of New Jersey in the
25 county in which he resides by filing a written request for such a
26 hearing within 30 days of the denial. Copies of the request shall be
27 served upon the superintendent and the county prosecutor. The
28 hearing shall be held within 30 days of the filing of the request, and no
29 formal pleading or filing fee shall be required. Appeals from the
30 determination of such a hearing shall be in accordance with law and
31 the rules governing the courts of this State.

32 (6) A judge of the Superior Court may revoke a retired officer's
33 privilege to carry a handgun pursuant to this subsection for good cause
34 shown on the application of any interested person. A person who
35 becomes subject to any of the disabilities set forth in subsection c. of
36 N.J.S.2C:58-3 shall surrender, as prescribed by the superintendent, his
37 identification card issued under paragraph (4) of this subsection to the
38 chief law enforcement officer of the municipality wherein he resides or
39 the superintendent, and shall be permanently disqualified to carry a
40 handgun under this subsection.

41 (7) The superintendent may charge a reasonable application fee to
42 retired officers to offset any costs associated with administering the
43 application process set forth in this subsection.

44 m. Nothing in subsection d. of N.J.S.2C:39-5 shall be construed to
45 prevent duly authorized personnel of the New Jersey Division of Fish,
46 Game and Wildlife, while in the actual performance of duties, from

1 possessing, transporting or using any device that projects, releases or
2 emits any substance specified as being non-injurious to wildlife by the
3 Director of the Division of Animal Health in the Department of
4 Agriculture, and which may immobilize wildlife and produces only
5 temporary physical discomfort through being vaporized or otherwise
6 dispensed in the air for the purpose of repelling bear or other animal
7 attacks or for the aversive conditioning of wildlife.

8 n. Nothing in subsection b., c., d. or e. of N.J.S.2C:39-5 shall be
9 construed to prevent duly authorized personnel of the New Jersey
10 Division of Fish, Game and Wildlife, while in the actual performance
11 of duties, from possessing, transporting or using hand held pistol-like
12 devices, rifles or shotguns that launch pyrotechnic missiles for the sole
13 purpose of frightening, hazing or aversive conditioning of nuisance or
14 depredating wildlife; from possessing, transporting or using rifles,
15 pistols or similar devices for the sole purpose of chemically
16 immobilizing wild or non-domestic animals; or, provided the duly
17 authorized person complies with the requirements of subsection j. of
18 this section, from possessing, transporting or using rifles or shotguns,
19 upon completion of a Police Training Commission approved training
20 course, in order to dispatch injured or dangerous animals or for
21 non-lethal use for the purpose of frightening, hazing or aversive
22 conditioning of nuisance or depredating wildlife.

23 (cf: P.L.1997, c.393, s.1)

24

25 ¹[16.] ²[15.¹] 16.² Section 2 of P.L.1997, c.117 (C.2C:43-7.2)
26 is amended to read as follows:

27 2. a. A court imposing a sentence of incarceration for a crime of
28 the first or second degree shall fix a minimum term of 85% of the
29 sentence during which the defendant shall not be eligible for parole if
30 the crime is a violent crime as defined in subsection d. of this section.

31 b. The provisions of subsection a. of this section shall not be
32 construed or applied to reduce the time that must be served before
33 eligibility for parole by an inmate sentenced to a mandatory minimum
34 period of incarceration.

35 c. Notwithstanding any other provision of law to the contrary and
36 in addition to any other sentence imposed, a court imposing a
37 minimum period of parole ineligibility of 85 percent of the sentence
38 pursuant to this section shall also¹[, unless the court imposes a
39 sentence of lifetime parole supervision pursuant to P.L. , c.
40 (C.)](now pending before the Legislature as Senate Bill No. 524
41 SCS),¹ impose a five-year term of parole supervision if the defendant
42 is being sentenced for a crime of the first degree, or a three-year term
43 of parole supervision if the defendant is being sentenced for a crime of
44 the second degree. The term of parole supervision shall commence
45 upon the completion of the sentence of incarceration imposed by the
46 court pursuant to subsection a. of this section unless the defendant is

1 serving a sentence of incarceration for another crime at the time he
2 completes the sentence of incarceration imposed pursuant to
3 subsection a., in which case the term of parole supervision shall
4 commence immediately upon the defendant's release from
5 incarceration. During the term of parole supervision the defendant
6 shall remain in release status in the community in the legal custody of
7 the Commissioner of the Department of Corrections and shall be
8 supervised by the [Bureau of Parole of the Department of
9 Corrections] State Parole Board as if on parole and shall be subject to
10 the provisions and conditions of section 3 of P.L.1997, c.117
11 (C.30:4-123.51b).

12 d. For the purposes of this section, "violent crime" means any
13 crime in which the actor causes death, causes serious bodily injury as
14 defined in subsection b. of N.J.S.2C:11-1, or uses or threatens the
15 immediate use of a deadly weapon. "Violent crime" also includes any
16 aggravated sexual assault or sexual assault in which the actor uses, or
17 threatens the immediate use of, physical force.

18 For the purposes of this section, "deadly weapon" means any
19 firearm or other weapon, device, instrument, material or substance,
20 whether animate or inanimate, which in the manner it is used or is
21 intended to be used, is known to be capable of producing death or
22 serious bodily injury.

23 e. A court shall not impose sentence pursuant to this section unless
24 the ground therefor has been established at a hearing after the
25 conviction of the defendant and on written notice to him of the ground
26 proposed. The defendant shall have the right to hear and controvert
27 the evidence against him and to offer evidence upon the issue.
28 (cf: P.L.1997, c.117, s.1).

29
30 ²17. Section 5 of P.L.1979, c.441 (C.30:4-123.49) is amended to
31 read as follows:

32 5. a. The chairman of the board, after consulting with the board,
33 shall assign any case not otherwise assigned, such as county jail,
34 workhouse, or penitentiary cases, to a special panel composed of any
35 two members or any one member and one [senior] hearing officer as
36 necessary for the efficient functioning of the board.

37 b. Nothing contained in this act shall be deemed to preclude a
38 member of any board panel from exercising all the functions, powers,
39 and duties of a hearing officer upon designation by the chairman;
40 provided, however, that no member so designated shall participate in
41 the disposition of a panel or board review of his initial decision.

42 c. No hearing officer assigned to review adult cases shall be
43 assigned to review juvenile cases pursuant to sections 13 and 19 of
44 P.L.1979, c.441 (C.30:4-123.57 and 30:4-123.63), nor shall any
45 hearing officer assigned to review juvenile cases be assigned to review
46 adult cases.

1 d. Representatives of the board or the chairman designated
2 pursuant to this act may include employees of the board and
3 employees of other agencies such as the Department of Corrections or
4 the Juvenile Justice Commission established pursuant to section 2 of
5 P.L.1995, c.284 (C.52:17B-170), provided that no employee of the
6 Department of Corrections or the Juvenile Justice Commission shall be
7 so designated without the approval of the Commissioner of
8 Corrections or the Executive Director of the Commission. Such
9 representatives shall not participate in the disposition of parole cases.²
10 (cf: P.L.1995, c.280, s.36)

11

12 ²18. Section 8 of P.L.1979, c.441 (C.30:4-123.52) is amended to
13 read as follows:

14 8. a. If the appropriate board panel determines that an adult inmate
15 has seriously or persistently violated specifically defined institutional
16 rules or has engaged in conduct indictable in nature while incarcerated,
17 the inmate's parole eligibility date may be increased pursuant to a
18 schedule developed by the board. In developing such schedule,
19 particular emphasis shall be placed on the severity of the inmate's
20 conduct. The board shall deduct from the scheduled penalty any loss
21 of commutation time imposed by the Department of Corrections
22 pursuant to R.S.30:4-140.

23 b. If the appropriate board panel determines that an adult inmate
24 has made exceptional progress, as evidenced by documented
25 participation and progress in institutional or community educational,
26 training or other programs, the inmate's parole eligibility date may be
27 decreased, except that no parole eligibility date shall be set below the
28 primary parole eligibility date without the consent of the sentencing
29 court, which need not conduct a hearing and in no case shall a parole
30 eligibility date be set below any judicial or statutory mandatory
31 minimum term, including any parole eligibility date set pursuant to
32 section 23 of this act.

33 c. The appropriate board panel shall annually monitor the progress
34 of each adult inmate and provide the inmate with a written statement
35 of any changes in his parole eligibility.

36 d. At any time while an inmate is committed to the custody of the
37 Commissioner of Corrections, the appropriate board panel or the
38 Parole Board may require, as often as it deems necessary, that inmate
39 to undergo an in-depth preparole psychological evaluation conducted
40 by a psychologist [employed by the Parole Board or, where
41 appropriate after consultation with the Department of Corrections, by
42 a psychologist at the Adult Diagnostic and Treatment Center, to
43 provide current and accurate information to assess the inmate's
44 suitability for parole].

45 e. Prior to the parole eligibility date of each adult inmate, an
46 objective risk assessment shall be performed by board staff or by some

1 other appropriate agent of the State. The risk assessment, which shall
2 be in a form prescribed by the board pursuant to rule and regulation,
3 shall consist of both static and dynamic factors which may assist the
4 board panel in determining whether the inmate shall be certified for
5 parole and, if paroled, the level of supervision the parolee may require.
6 In addition to the information otherwise gathered for and incorporated
7 in the pre-parole report, the assessment shall include evaluations of the
8 inmate's ability to function independently, the inmate's educational and
9 employment background, the inmate's family and marital history, and
10 such other information and factors as the board may deem appropriate
11 and necessary.²

12 (cf: P.L.1997, c.217, s.2)

13

14 ¹[17.] ²[16.¹] 19.² This act shall take effect ²[immediately] on
15 the 120th day following enactment².

FISCAL NOTE
 [Second Reprint]
SENATE, No. 2026
STATE OF NEW JERSEY
209th LEGISLATURE

DATED: APRIL 16, 2001

SUMMARY

Synopsis: Transfers the Bureau of Parole in the Department of Corrections to the State Parole Board.

Type of Impact: General Fund expenditure.

Agencies Affected: Department of Corrections, State Parole Board

Executive Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Cost	Unknown - See comments below		

- ! The Office of Legislative Services **concurs** with the Executive estimate.
- ! The bill would transfer the Bureau of Parole to the State Parole board consolidating the two agencies under one direct authority.
- ! The Department of Corrections states that the transfer of the responsibilities of the Division of Parole which are funded under the division's budget would generate no cost to the State. However, the department notes that there are several functions which the Department of Corrections currently provides to the Division of Parole, which, if not continued after the transfer to the Parole Board, would need to be provided by the Parole Board at an unknown additional cost. These include: Central Communications monitoring and servicing; Central transport; DOC lab services; Correction staff training academy; Firearm re-qualification; Firearm issuance and storage; Radio maintenance; Office of Information Technology; Special Investigation Division; Equal Employment Division; Office of Community Programs; Disciplinary hearing officers; Standards development unit; Employee relations; and Central office support.

BILL DESCRIPTION

Senate Bill No. 2026 (2R) of 2001 would transfer the Bureau of Parole to the State Parole Board consolidating the two agencies under one direct authority. Presently, two agencies have the responsibility for parole: the State Parole Board and the Bureau of Parole. The State Parole Board, which operates as an autonomous agency, determines when an inmate who is eligible for parole may be safely released. The Bureau of Parole, which is in the Department of Corrections, is charged with the responsibility of supervising an inmate once that inmate is released. Under the provisions of this bill, the State Parole Board would be charged with the responsibilities of notifying the prosecutor when an inmate is scheduled to be released.

FISCAL ANALYSIS

EXECUTIVE BRANCH

The Department of Corrections states that the transfer of the responsibilities of the Division of Parole which are funded under the division's budget would generate no cost to the State. However, the department notes that there are several functions which the Department of Corrections currently provides to the Division of Parole, which, if not continued after the transfer to the Parole Board, would need to be provided by the Parole Board at an unknown additional cost. These include: Central Communications monitoring and servicing; Central transport; DOC lab services; Correction staff training academy; Firearm re-qualification; Firearm issuance and storage; Radio maintenance; Office of Information Technology; Special Investigation Division; Equal Employment Division; Office of Community Programs; Disciplinary hearing officers; Standards development unit; Employee relations; and Central office support. The department notes that the fiscal impact of the bill on the DOC and the State Parole Board cannot be determined until agreement is reached on those services which the department will continue to provide and those which the Parole Board will assume.

OFFICE OF LEGISLATIVE SERVICES

The Office of Legislative Services concurs with the Executive estimate.

Section: *Judiciary*

Analyst: *Anne C. Raughley*
Lead Fiscal Analyst

Approved: *Alan R. Kooney*
Legislative Budget and Finance Officer

This fiscal note has been prepared pursuant to P.L.1980, c.67.

ASSEMBLY, No. 3214

STATE OF NEW JERSEY 209th LEGISLATURE

INTRODUCED FEBRUARY 15, 2001

Sponsored by:

Assemblyman JAMES W. HOLZAPFEL

District 10 (Monmouth and Ocean)

SYNOPSIS

Transfers the Bureau of Parole in the Department of Corrections to the State Parole Board.

CURRENT VERSION OF TEXT

As introduced.



A3214 HOLZAPFEL

2

1 AN ACT concerning parole and revising various parts of the statutory
2 law.

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

6
7 1. (New section). a. All functions, powers and duties of the
8 existing Bureau of Parole in the Department of Corrections are hereby
9 transferred to the State Parole Board.

10 b. All files, books, papers, records, equipment and other property
11 of the Bureau of Parole in the Department of Corrections shall be
12 transferred to the State Parole Board.

13 c. All appropriations and other moneys available and to become
14 available to the Bureau of Parole in the Department of Corrections,
15 the functions, powers and duties of which have been assigned or
16 transferred herein, are hereby transferred to the State Parole Board
17 and shall be available for the objects and purposes for which
18 appropriated, subject to any terms, restrictions, limitations or other
19 requirements imposed by State or Federal law.

20 d. The employees of the Bureau of Parole in the Department of
21 Corrections are hereby transferred to the State Parole Board.

22 e. Nothing in P.L. c, (C.)(now pending before the
23 Legislature as this bill) shall be construed to deprive any person of any
24 tenure rights or of any right or protection provided him by Title 11 of
25 the Revised Statutes, Civil Service, or under any pension law or
26 retirement system.

27 f. P.L. c, (C.)(now pending before the Legislature as this bill)
28 shall not affect actions or proceedings, civil or criminal, brought by
29 or against the Bureau of Parole in the Department of Corrections, the
30 functions, powers and duties of which have been herein assigned or
31 transferred to the State Parole Board.

32
33 2. Section 1 of P.L.1979, c.441 (C.30:4-123.45) is amended to
34 read as follows:

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

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

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

40 (2) "Juvenile inmate" means any person under commitment as a
41 juvenile delinquent pursuant to section 25 of P.L.1982, c.77
42 (C.2A:4A-44).

43 (3) "Parole release date" means that date certified by a member of

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.

1 the board for release of an inmate after a review of the inmate's case
2 pursuant to section 11, 13 or 14 of this act.

3 (4) "Primary parole eligibility date" means that date established for
4 parole eligibility for adult inmates pursuant to section 7 or 20 of this
5 act.

6 (5) "Public notice" shall consist of lists including names of all
7 inmates being considered for parole, the county from which he was
8 committed and the crime for which he was incarcerated. At least 30
9 days prior to parole consideration such lists shall be forwarded to the
10 prosecutor's office of each county, the sentencing court, the office of
11 the Attorney General, any other criminal justice agencies whose
12 information and comment may be relevant, and news organizations.

13 (6) Removal for "cause" means such substantial cause as is plainly
14 sufficient under the law and sound public policy touching upon
15 qualifications appropriate to a member of the parole board or the
16 administration of said board such that the public interest precludes the
17 member's continuance in office. Such cause includes, but is not limited
18 to, misconduct in office, incapacity, inefficiency and nonfeasance.

19 (7) "Commission" means the Juvenile Justice Commission
20 established pursuant to section 2 of P.L.1995, c.284 (C.52:17B-170).

21 (8) "Parole officer" means, with respect to an adult inmate, an
22 officer assigned by the [Bureau of Parole] Chairman of the State
23 Parole Board or his designee and, with respect to a juvenile inmate,
24 a person assigned by the commission.

25 (cf: P.L.1995, c.280, s.34).

26

27 3. Section 1 of P.L.1997, c.215 (C.30:4-123.47a) is amended to
28 read as follows:

29 1. There is hereby established a Parole Advisory Board in, but not
30 of, the [Bureau of Parole]State Parole Board. Notwithstanding the
31 allocation of the board within the [bureau]State Parole Board, the
32 [bureau]State Parole Board or any employee thereof shall not exercise
33 any control over the [board] Parole Advisory Board. The advisory
34 board shall consist of 23 members. It shall include in its membership
35 the [Chief of the Bureau of Parole in the Department of Corrections]
36 Chairman of the State Parole Board or his designee, who shall serve
37 ex officio; one member representing each of the following
38 organizations and groups, who shall be appointed by the Governor:
39 [the State Parole Board,] the Department of Corrections, the
40 Department of Health and Senior Services, the Department of Law and
41 Public Safety, Office of the Governor, the Administrative Office of the
42 Courts, the Victims of Crime Compensation Board, the New Jersey
43 Chapter of the American Correctional Association, the County
44 Prosecutors Association of New Jersey, the Sheriffs' Association of
45 New Jersey, the New Jersey Wardens Association, the New Jersey
46 State Association of Chiefs of Police, the American Parole and

1 Probation Association, Governor's Council on Alcoholism and Drug
2 Abuse, the community at large, treatment providers, victims' rights
3 groups and former inmates who have successfully completed parole.
4 Two members of the Senate, who shall not be of the same political
5 party and who shall serve during their terms of office, shall be
6 appointed by the President of the Senate. Two members of the
7 General Assembly, who shall not be of the same political party and
8 who shall serve during their terms of office, shall be appointed by the
9 Speaker of the General Assembly.

10 Members of the advisory board shall be appointed with the advice
11 and consent of the Senate, and serve a term of three years, except for
12 the initial gubernatorial appointees, six of whom shall serve for two
13 years and six of whom shall serve for four years. Each member shall
14 serve for the term of appointment and until a successor is appointed.
15 A member may be reappointed to the advisory board. A member
16 appointed to fill a vacancy occurring in the membership of the advisory
17 board for any reason other than the expiration of the term shall serve
18 a term of appointment for the unexpired term only. All vacancies shall
19 be filled in the same manner as the original appointments. Any
20 appointed member of the advisory board, except the legislative
21 members, may be removed from the advisory board by the Governor,
22 for cause, after a hearing, and may be suspended by the Governor
23 pending the completion of the hearing. Legislative members may be
24 removed for cause by the leader of their respective houses. Motions
25 and resolutions may be adopted by the advisory board at a board
26 meeting by an affirmative vote of not less than 12 members.

27 Members of the advisory board shall serve without compensation
28 but shall be entitled to reimbursement for actual expenses of serving
29 on the board, to the extent that funds are available for this purpose.

30 The advisory board shall organize as soon as possible after the
31 appointment of its members. The members shall select a chair from
32 among their number.

33 (cf: P.L.1997, c.215, s.1).

34

35 4. Section 2 of P.L.1997, c.215 (C.30:4-123.47b.) is amended to
36 read as follows:

37 2. It shall be the duty of the advisory board to review and comment
38 on supervision issues, the development and implementation of drug
39 and alcohol treatment programs for parolees, and any other issues as
40 requested by the [Commissioner of Corrections] State Parole Board,
41 taking into consideration all relevant research [conducted by the
42 Bureau of Parole]. The advisory board shall sponsor conferences
43 with criminal justice administrators and community members, including
44 treatment providers, in order to educate all interested parties in the
45 importance of relapse prevention and treatment for specialized cases,
46 and to address issues such as lowering costs, developing protocols for

1 confidentiality, identifying the type and amount of treatment that
2 should be available, and promoting community involvement in the
3 reintegration process. The advisory board may make
4 recommendations to the Commissioner of Corrections, the Chairman
5 of the State Parole Board, the Legislature and the Governor in these
6 matters.

7 The advisory board shall meet at least semiannually and may hold
8 hearings at any place or places it shall designate during the sessions or
9 recesses of the Legislature. The [Bureau of Parole] State Parole
10 Board shall have primary responsibility for providing staff services and
11 other necessary support to the board. The advisory board may also
12 request the assistance and services of the employees of any State,
13 county or municipal department, board, bureau, commission, task
14 force or agency as it may require and as may be available to it for its
15 purposes. The advisory board may, within the limits of funds
16 appropriated or otherwise made available to it for its purposes, employ
17 stenographic and clerical assistants and incur travel and miscellaneous
18 expenses necessary for the performance of its duties.
19 (cf: P.L.1997, c.215, s.2).

20

21 5. Section 4. of P.L.1979, c.441 (C.30:4-123.48) is amended to
22 read as follows:

23 4. a. All policies and determinations of the Parole Board shall be
24 made by the majority vote of the members.

25 b. Except where otherwise noted, parole determinations on
26 individual cases pursuant to this act shall be made by the majority vote
27 of a quorum of the appropriate board panel established pursuant to this
28 section.

29 c. The chairman of the board shall be the chief executive officer
30 of the board and, after consulting with the board, shall be responsible
31 for designating the time and place of all board meetings, for appointing
32 the board's employees, for organizing, controlling and directing the
33 work of the board and its employees, and for preparation and
34 justification of the board's budget. The nonsecretarial professional and
35 supervisory employees of the board such as, but not limited to, hearing
36 officers, shall serve at the pleasure of the chairman and shall not be
37 subject to the provisions of Title 11 of the Revised Statutes. [Nothing
38 contained herein shall be deemed to affect the employees of the
39 Department of Corrections, such as parole officers assigned to
40 supervise parolees] Parole officers assigned to supervise parolees and
41 all supervisory titles associated with the supervision of parolees in the
42 parole officer series shall be classified employees subject to the
43 provisions of Title 11 of the Revised Statutes. Parole officers assigned
44 to supervise parolees and all supervisory titles associated with the
45 supervision of parolees in the parole officer job classification series
46 shall be organizationally assigned to the State Parole Board with a

1 designee promoted through the ranks of the parole officer job
2 classification series to act as director of parole supervision. The
3 director of parole supervision shall report directly to the Chairman of
4 the State Parole Board.

5 d. The board shall promulgate such reasonable rules and
6 regulations, consistent with this act, as may be necessary for the
7 proper discharge of its responsibilities. The chairman shall file such
8 rules and regulations with the Secretary of State. The provisions of
9 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
10 seq.) shall apply to the promulgation of rules and regulations
11 concerning policy and administration, but not to other actions taken
12 under this act, such as parole hearings, parole revocation hearings and
13 review of parole cases. In determination of its rules and regulations
14 concerning policy and administration, the board shall consult the
15 Governor, the Commissioner of Corrections and the Juvenile Justice
16 Commission established pursuant to section 2 of P.L.1995, c.284
17 (C.52:17B-170).

18 e. The board, in conjunction with the Department of Corrections
19 and the Juvenile Justice Commission, shall develop a uniform
20 information system in order to closely monitor the parole process.
21 Such system shall include participation in the Uniform Parole Reports
22 of the National Council on Crime and Delinquency.

23 f. The board shall transmit a report of its work for the preceding
24 fiscal year, including information on the causes and extent of parole
25 recidivism, to the Governor, the Legislature and the Juvenile Justice
26 Commission annually.

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

29 h. The board shall give notice to the appropriate prosecutor's
30 office and to the committing court prior to the initial consideration of
31 any juvenile inmate for release.

32 (cf: P.L.1995, c.280, s.35)

33
34 6. Section 3 of P.L.1997, c.117 (C.30:4-123.51b.) is amended to
35 read as follows:

36 3. a. A person who has been sentenced to a term of parole
37 supervision and is on release status in the community pursuant to
38 section 2 of P.L.1997, c.117 (C.2C:43-7.2) shall, during the term of
39 parole supervision, remain on release status in the community, in the
40 legal custody of the Commissioner of the Department of Corrections,
41 and shall be supervised by the [Bureau of Parole of the Department
42 of Corrections] parole officers in the State Parole Board as if on
43 parole, and shall be subject to the provisions and conditions set by the
44 appropriate board panel. The appropriate board panel shall have the
45 authority, in accordance with the procedures and standards set forth
46 in sections 15 through 21 of P.L.1979, c.441 (C.30:4-123.59 through

1 30:4-123.65), to revoke the person's release status and return the
2 person to custody for the remainder of the term or until it is
3 determined, in accordance with regulations adopted by the board, that
4 the person is again eligible for release consideration pursuant to
5 section 9 of P.L.1979, c.441 (C.30:4-123.53).

6 b. The Parole Board shall promulgate rules and regulations
7 necessary to carry out the purposes of this act pursuant to the
8 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
9 seq.).
10 (cf: P.L.1997, c.117, s.3)

11

12 7. Section 1 of P.L.1997, c.214 (C.30:4-123.51c) is amended to
13 read as follows:

14 1. a. (1) For the purpose of this section, "terminal condition,
15 disease or syndrome" means a prognosis by the licensed physicians
16 designated by the Commissioner of Corrections pursuant to subsection
17 b. of this section that an inmate has six months or less to live.

18 (2) Except as otherwise provided in paragraph (3) of this
19 subsection, the appropriate board panel may release on medical parole
20 any inmate serving any sentence of imprisonment who has been
21 diagnosed pursuant to subsection b. of this section as suffering from
22 a terminal condition, disease or syndrome and is found by the
23 appropriate board panel to be so debilitated or incapacitated by the
24 terminal condition, disease or syndrome as to be permanently
25 physically incapable of committing a crime if released on parole.
26 Notwithstanding any provision of P.L.1979, c.441 (C.30:4-123.45 et
27 seq.) to the contrary, the appropriate board panel may release any such
28 inmate at any time during the term of the sentence. An inmate placed
29 on parole pursuant to this section shall be subject to custody,
30 supervision and conditions as provided in section 15 of P.L.1979,
31 c.441 [(C.30:3-123.59)] (C.30:4-123.59) and shall be subject to
32 sanctions for a violation of a condition of parole as provided in
33 sections 16 through 21 of P.L.1979, c.441 (C.30:4-123.60 through
34 30:4-123.65).

35 (3) No inmate serving any sentence for a violation of
36 N.J.S.2C:11-3; N.J.S.2C:11-4; N.J.S.2C:13-1; subsection a. of
37 N.J.S.2C:14-2; N.J.S.2C:15-1 in which the inmate, while in the course
38 of committing the theft, attempted to kill another, or purposely
39 inflicted or attempted to inflict serious bodily injury, or was armed
40 with or used or threatened the immediate use of a deadly weapon;
41 subsection a. of N.J.S.2C:17-1; or N.J.S.2C:24-4 or an attempt to
42 commit any of these offenses shall be eligible for the medical parole
43 authorized under paragraph (2) of this section.

44 b. A medical diagnosis that an inmate is suffering from a terminal
45 condition, disease or syndrome shall be made by two licensed
46 physicians designated by the Commissioner of Corrections. The

1 diagnosis shall include, but not be limited to:

2 (1) a description of the terminal condition, disease or syndrome;

3 (2) a prognosis concerning the likelihood of recovery from the
4 terminal condition, disease or syndrome;

5 (3) a description of the inmate's physical incapacity; and

6 (4) a description of the type of ongoing treatment that would be
7 required if the inmate were released on medical parole.

8 c. A request for a medical diagnosis to determine whether an
9 inmate is eligible for a medical parole under this section may be
10 submitted to the appropriate board panel by the Commissioner of
11 Corrections, the administrator or superintendent of a correctional
12 facility; the inmate; a member of the inmate's family or the inmate's
13 attorney. The request shall be submitted in a manner and form
14 prescribed by the board.

15 d. At least five working days prior to commencing its review of a
16 request for a medical parole, the appropriate board panel shall notify
17 the appropriate sentencing court; county prosecutor or, if the matter
18 was prosecuted by the Attorney General, the Attorney General; and
19 any victim or member of the family of a victim entitled to notice
20 relating to a parole or the consideration of a parole under the
21 provisions of P.L.1979, c.441 (C.30:4-123.45 et seq.). The notice
22 shall be given in the manner prescribed by the board and shall contain
23 all such information and documentation relating to the medical
24 diagnosis prepared pursuant to subsection b. of this section as the
25 board shall deem appropriate and necessary.

26 Upon receipt of the notice, the sentencing court; county prosecutor
27 or Attorney General, as the case may be; the victim or member of the
28 family of the victim, as the case may be, shall have 10 working days
29 to review the notice and submit comments to the appropriate board
30 panel. If a recipient of the notice does not submit comments within
31 that 10-day period following the receipt of the notice, the panel may
32 presume that the recipient does not wish to submit comments and
33 proceed with its consideration of the request for medical parole. Any
34 comments provided by a recipient shall be delivered to the appropriate
35 board panel in the same manner or by the same method as notice was
36 given by the panel to that recipient.

37 The information contained in any notice given by a panel pursuant
38 to this subsection and the contents of any comments submitted by a
39 recipient in response thereto shall be confidential and shall not be
40 disclosed to any person who is not authorized to receive or review that
41 information or those comments.

42 Notice given under the provisions of this subsection shall be in lieu
43 of any other notice of parole consideration required under P.L.1979,
44 c.441 (C.30:4-123.45 et seq.).

45 Nothing in this subsection shall be construed to impair any party's
46 right to be heard pursuant to P.L.1979, c.441 (C.30:4-123.45 et seq.).

1 e. The appropriate board panel shall conduct its review of a request
2 for medical parole as expeditiously as possible.

3 The appropriate board panel shall provide written notice of its
4 decision to the sentencing court; the county prosecutor or Attorney
5 General, as the case may be; and any victim or member of a victim's
6 family given notice pursuant to subsection d. of this section.

7 f. Whenever an inmate is granted medical parole pursuant to this
8 section, the appropriate board shall require, as a condition precedent
9 to release, that the inmate's release plan include:

10 (1) identification of a community sponsor;

11 (2) verification of the availability of appropriate medical services
12 sufficient to meet the treatment requirements identified pursuant to
13 paragraph (4) of subsection b. of this section; and

14 (3) verification of appropriate housing which may include, but need
15 not be limited to, a hospital, hospice, nursing home facility or other
16 housing accommodation suitable to the inmate's medical condition,
17 disease or syndrome.

18 g. In addition to any conditions imposed pursuant to section 15 of
19 P.L.1979, c.441 (C.30:4-123.59), as a condition of release on medical
20 parole, the appropriate board panel may require an inmate to submit
21 to periodic medical diagnoses by a licensed physician.

22 h. If, after review of a medical diagnosis required under the
23 provisions of subsection g. of this section, the appropriate board panel
24 determines that a parolee released on medical parole is no longer so
25 debilitated or incapacitated by a terminal condition, disease or
26 syndrome as to be physically incapable of committing a crime, the
27 parolee shall be returned to confinement in an appropriate facility
28 designated by the Commissioner of Corrections.

29 A decision to return the parolee to confinement pursuant to this
30 subsection shall be rendered only after a hearing by the appropriate
31 board panel or by a hearing officer designated by the chairman of the
32 board. Nothing in this subsection shall be construed to limit the
33 authority of the board, an appropriate board panel or [any] parole
34 officer of the State Parole Board to address a violation of a condition
35 of parole pursuant to sections 16 through 21 of P.L.1979, c.441
36 (C.30:4-123.60 through 30:4-123.65).

37 i. The denial of a request for medical parole or the return of a
38 parolee to confinement under the provisions of subsection h. of this
39 section shall not preclude that inmate from being considered for parole
40 pursuant to subsection a. of section 7 of P.L.1979, c.441
41 (C.30:4-123.51).

42 (cf: P.L.1997, c.214, s.1)

43
44 8. Section 1 of P.L. 1994, c. 135 (C.30:4-123.53a.) is amended to
45 read as follows:

46 1. a. As used in this act: "Prosecutor" means the county

1 prosecutor of the county in which the defendant was convicted unless
2 the matter was prosecuted by the Attorney General, in which case
3 "prosecutor" means the Attorney General.

4 "Office of Victim Witness Advocacy" means the Office of Victim
5 Witness Advocacy of the county in which the defendant was
6 convicted.

7 b. Notwithstanding any other provision of law to the contrary, the
8 [Department of Corrections] State Parole Board shall provide written
9 notice to the prosecutor of the anticipated release from incarceration
10 in a county or State penal institution or the Adult Diagnostic and
11 Treatment Center of a person convicted of murder; manslaughter;
12 aggravated sexual assault; sexual assault; aggravated assault;
13 aggravated criminal sexual contact; kidnapping pursuant to paragraph
14 (2) of subsection c. of N.J.S.2C:13-1; endangering the welfare of a
15 child by engaging in sexual conduct which would impair or debauch
16 the morals of the child pursuant to subsection a. of N.J.S.2C:24-4;
17 endangering the welfare of a child pursuant to paragraph (4) of
18 subsection b. of N.J.S.2C:24-4; luring or enticing pursuant to section
19 1 of P.L.1993, c.291 (C.2C:13-6); any other offense involving serious
20 bodily injury or an attempt to commit any of the aforementioned
21 offenses.

22 c. Notwithstanding any other provision of law to the contrary, the
23 Juvenile Justice Commission established pursuant to section 2 of
24 P.L.1995, c.284 (C.52:17B-170) shall provide written notice to the
25 prosecutor of the anticipated release from incarceration of a juvenile
26 adjudicated delinquent on the basis of an offense which, if committed
27 by an adult, would constitute murder; manslaughter; aggravated sexual
28 assault; sexual assault; aggravated assault; aggravated criminal sexual
29 contact; kidnapping pursuant to paragraph (2) of subsection c. of
30 N.J.S.2C:13-1; endangering the welfare of a child by engaging in
31 sexual conduct which would impair or debauch the morals of the child
32 pursuant to subsection a. of N.J.S.2C:24-4; endangering the welfare
33 of a child pursuant to paragraph (4) of subsection b. of N.J.S.2C:24-4;
34 luring or enticing pursuant to section 1 of P.L.1993, c.291
35 (C.2C:13-6); any other offense involving serious bodily injury or an
36 attempt to commit any of the aforementioned offenses.

37 d. If available, the notice shall be provided to the prosecutor 90
38 days before the inmate's anticipated release; provided however, the
39 notice shall be provided at least 30 days before release. The notice
40 shall include the person's name, identifying factors, offense history,
41 and anticipated future residence. The prosecutor shall notify the
42 Office of Victim and Witness Advocacy and that office shall use any
43 reasonable means available to them to notify the victim of the
44 anticipated release unless the victim has requested not to be notified.

45 e. Upon receipt of notice, the prosecutor shall provide notice to
46 the law enforcement agency responsible for the municipality where the

1 inmate will reside, the municipality in which any victim resides, and
2 such other State and local law enforcement agencies as appropriate for
3 public safety.

4 (cf: P.L.1995, c.280, s.37)

5
6 9. Section 15 of P.L.1979, c.441 (C.30:4-123.59) is amended to
7 read as follows:

8 15. a. Each adult parolee shall at all times remain in the legal
9 custody of the Commissioner of Corrections and under the supervision
10 of the State Parole Board and each juvenile parolee shall at all times
11 remain in the legal custody of the Juvenile Justice Commission
12 established pursuant to section 2 of P.L.1995, c.284 (C.52:17B-170)
13 and under the supervision of the State Parole Board , except that the
14 Commissioner of Corrections or the Executive Director of the Juvenile
15 Justice Commission, after providing notice to the Attorney General,
16 may consent to the supervision of a parolee by the federal government
17 pursuant to the Witness Security Reform Act, Pub.L.98-473 (18
18 U.S.C. s.3251 et seq.). A parolee, except those under the Witness
19 Security Reform Act, shall remain under the supervision of the
20 [Bureau of Parole] State Parole Board and in the legal custody of the
21 Department of Corrections or the Juvenile Justice Commission, as
22 appropriate, in accordance with the policies and rules of the board.

23 b. Each parolee shall agree, as evidenced by his signature to abide
24 by specific conditions of parole established by the appropriate board
25 panel which shall be enumerated in writing in a certificate of parole
26 and shall be given to the parolee upon release. Such conditions shall
27 include, among other things, a requirement that the parolee conduct
28 himself in society in compliance with all laws and refrain from
29 committing any crime, a requirement that the parolee will not own or
30 possess any firearm as defined in subsection f. of N.J.S.2C:39-1 or any
31 other weapon enumerated in subsection r. of N.J.S.2C:39-1, a
32 requirement that the parolee refrain from the use, possession or
33 distribution of a controlled dangerous substance, controlled substance
34 analog or imitation controlled dangerous substance as defined in
35 N.J.S.2C:35-2 and N.J.S.2C:35-11, a requirement that the parolee
36 obtain permission from his parole officer for any change in his
37 residence, and a requirement that the parolee report at reasonable
38 intervals to an assigned parole officer. In addition, based on prior
39 history of the parolee or information provided by a victim or a member
40 of the family of a murder victim, the member or board panel certifying
41 parole release pursuant to section 11 of P.L.1979, c.441
42 (C.30:4-123.55) may impose any other specific conditions of parole
43 deemed reasonable in order to reduce the likelihood of recurrence of
44 criminal or delinquent behavior. Such special conditions may include,
45 among other things, a requirement that the parolee make full or partial
46 restitution, the amount of which restitution shall be set by the

1 sentencing court upon request of the board. In addition, the member
2 or board panel certifying parole release may, giving due regard to a
3 victim's request, impose a special condition that the parolee have no
4 contact with the victim, which special condition may include, but need
5 not be limited to, restraining the parolee from entering the victim's
6 residence, place of employment, business or school, and from
7 harassing or stalking the victim or victim's relatives in any way.

8 c. The appropriate board panel may in writing relieve a parolee of
9 any parole conditions, and may permit a parolee to reside outside the
10 State pursuant to the provisions of the Uniform Act for Out-of-State
11 Parolee Supervision (N.J.S.2A:168-14 et seq.), the Interstate Compact
12 on Juveniles, P.L.1955, c.55 (C.9:23-1 to 9:23-4), and, with the
13 consent of the Commissioner of the Department of Corrections or the
14 Executive Director of the Juvenile Justice Commission after providing
15 notice to the Attorney General, the federal Witness Security Reform
16 Act, if satisfied that such change will not result in a substantial
17 likelihood that the parolee will commit an offense which would be a
18 crime under the laws of this State. The appropriate board panel may
19 revoke such permission, except in the case of a parolee under the
20 Witness Security Reform Act, or reinstate relieved parole conditions
21 for any period of time during which a parolee is under its jurisdiction.

22 d. The appropriate board panel may parole an inmate to any
23 residential facility funded in whole or in part by the State if the inmate
24 would not otherwise be released pursuant to section 9 of P.L.1979,
25 c.441 (C.30:4-123.53) without such placement. But if the residential
26 facility provides treatment for mental illness or mental retardation, the
27 board panel only may parole the inmate to the facility pursuant to the
28 laws and admissions policies that otherwise govern the admission of
29 persons to that facility, and the facility shall have the authority to
30 discharge the inmate according to the laws and policies that otherwise
31 govern the discharge of persons from the facility, on 10 days' prior
32 notice to the board panel. The board panel shall acknowledge receipt
33 of this notice in writing prior to the discharge. Upon receipt of the
34 notice the board panel shall resume jurisdiction over the inmate.

35 e. [The assigned parole officer] Parole officers shall provide
36 assistance to the parolee in obtaining employment, education or
37 vocational training or in meeting other obligations to assure the
38 parolees compliance with meeting legal requirements related to sex
39 offender notification, address changes and participation in
40 rehabilitation programs as directed by the assigned parole officer.

41 f. The board panel on juvenile commitments and the assigned
42 parole officer shall insure that the least restrictive available alternative
43 is used for any juvenile parolee.

44 g. If the board has granted parole to any inmate from a State
45 correctional facility or juvenile facility and the court has imposed a fine
46 on such inmate, the appropriate board panel shall release such inmate

1 on condition that the parolee make specified fine payments to the
2 Bureau of Parole or the Juvenile Justice Commission. For violation of
3 such conditions, or for violation of a special condition requiring
4 restitution, parole may be revoked only for refusal or failure to make
5 a good faith effort to make such payment.

6 h. Upon collection of the fine the same shall be paid over by the
7 Department of Corrections or by the Juvenile Justice Commission to
8 the State Treasury.

9 (cf: P.L.1997, c.218)

10

11 10. Section 16 of P.L.1979, c.441 (C.30:4-123.60) is amended to
12 read as follows:

13 16. a. Any parolee who violates a condition of parole may be
14 subject to an order pursuant to section 17 of P.L.1979, c.441
15 (C.30:4-123.61) providing for one or more of the following: (1) That
16 he be required to conform to one or more additional conditions of
17 parole; (2) That he forfeit all or a part of commutation time credits
18 granted pursuant to R.S.30:4-140.

19 b. Any parolee who has seriously or persistently violated the
20 conditions of his parole, may have his parole revoked and may be
21 returned to custody pursuant to sections 18 and 19 of P.L.1979, c.441
22 (C.30:4-123.62 and 30:4-123.63). The board shall be notified
23 immediately upon the arrest or indictment of a parolee or upon the
24 filing of charges that the parolee committed an act which, if committed
25 by an adult, would constitute a crime. The board shall not revoke
26 parole on the basis of new charges which have not resulted in a
27 disposition at the trial level except that upon application by the
28 prosecuting authority, the Juvenile Justice Commission established
29 pursuant to section 2 of P.L.1995, c.284 (C.52:17B-170) or the Chief
30 of the [Bureau] State Parole Board's Division of Parole, the
31 chairman of the board or his designee may at any time detain the
32 parolee and commence revocation proceedings pursuant to sections 18
33 and 19 of P.L.1979, c.441 (C.30:4-123.62 and 30:4-123.63) when the
34 chairman determines that the new charges against the parolee are of a
35 serious nature and it appears that the parolee otherwise poses a danger
36 to the public safety. In such cases, a parolee shall be informed that, if
37 he testifies at the revocation proceedings, his testimony and the
38 evidence derived therefrom shall not be used against him in a
39 subsequent criminal prosecution or delinquency adjudication.

40 c. Any parolee who is convicted of a crime or adjudicated
41 delinquent for an act which, if committed by an adult, would constitute
42 a crime, committed while on parole shall have his parole revoked and
43 shall be returned to custody unless the parolee demonstrates, by clear
44 and convincing evidence at a hearing pursuant to section 19 of
45 P.L.1979, c.441 (C.30:4-123.63), that good cause exists why he

1 should not be returned to confinement.

2 (cf: P.L.1995, c.280, s.40)

3

4 11. Section 18 of P.L.1979, c.441 (C.30:4-123.62) is amended to
5 read as follows:

6 18. a. (1) If a parole officer assigned to supervise a parolee has
7 probable cause to believe that the parolee has violated a condition of
8 his parole, such violation being a basis for return to custody pursuant
9 to subsection b. of section 16 of P.L.1979, c.441 (C.30:4-123.60), a
10 designated representative of the chairman of the board may issue a
11 warrant for the arrest of the parolee if evidence indicates that the
12 parolee may not appear at the preliminary hearing or if the parolee
13 poses a danger to the public safety. With the parole warrant, a law
14 enforcement officer may apprehend the delinquent parolee.

15 (2) If a parole officer assigned to supervise a parolee has probable
16 cause to believe that the parolee has committed a crime, has
17 committed an act or is about to commit an act which, if committed by
18 an adult, would constitute a crime, is about to commit a crime or is
19 about to flee the jurisdiction, which violation is a basis for return to
20 custody pursuant to subsection b. of section 16 of P.L.1979, c.441
21 (C.30:4-123.60), and the situation is one of immediate emergency that
22 cannot await the issuance of a warrant by a designated representative,
23 the parole officer, by the parole officer's own warrant, may apprehend
24 the parolee and cause his detention in a suitable facility designated by
25 the Department of Corrections or the Juvenile Justice Commission
26 established pursuant to section 2 of P.L.1995, c.284 (C.52:17B-170),
27 as appropriate, or cause the parolee's confinement in an appropriate
28 institution pending return to a facility designated by the Department
29 of Corrections or the Juvenile Justice Commission, as appropriate, to
30 await the conduction of a preliminary hearing. The warrant shall be in
31 the form prescribed, as appropriate, by the Juvenile Justice
32 Commission or by the [Bureau of Parole and approved by the
33 Department of Corrections] State Parole Board and, when signed by
34 the officer in charge of the case, shall be a sufficient instrument and
35 authority to all peace officers to assist in the apprehension of the
36 parolee. It shall also be sufficient authority for detention of the
37 parolee in a suitable facility, to await the conduction of the preliminary
38 hearing. Upon enforcement of the warrant, the appropriate board panel
39 shall be promptly notified. No parolee held in custody on a parole
40 warrant shall be entitled to release on bail.

41 b. A parolee retaken under this section shall within 14 days be
42 granted a preliminary hearing to be conducted by a hearing officer not
43 previously involved in the case, unless the parolee or the hearing
44 officer requests postponement of the preliminary hearing, which may
45 be granted by the appropriate board panel for good cause, but in no
46 event shall such postponement, if requested by the hearing officer,

1 exceed 14 days.

2 c. The preliminary hearing shall be for the purpose of determining:

3 (1) Whether there is probable cause to believe that the parolee
4 violated a condition of his parole being the basis for return to custody
5 pursuant to subsection b. of section 16 of P.L.1979, 441
6 (C.30:4-123.60), and

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

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

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

12 (2) The time, date, place and circumstances of the alleged
13 violation;

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

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

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

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

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

23 f. If the evidence presented at the preliminary hearing does not
24 support a finding of probable cause to believe that the parolee has
25 violated a condition of his parole, such violation being a basis for
26 return to custody pursuant to subsection b. of section 16 of P.L.1979,
27 c.441 (C.30:4-123.60), or if it is otherwise determined that revocation
28 is not desirable, the hearing officer may, in accordance with the
29 provisions of subsection a. of section 16 of P.L.1979, c.441
30 (C.30:4-123.60) and section 17 of P.L.1979, c.441 (C.30:4-123.61),
31 issue an order modifying parole and releasing the offender, or
32 continuing parole and releasing the offender.

33 g. If the evidence presented at the preliminary hearing supports a
34 finding of probable cause to believe that the parolee has violated a
35 condition of his parole, the hearing officer shall determine whether the
36 parolee shall be retained in custody or released on specific conditions
37 pending action by the appropriate board panel.

38 h. Conviction of a crime committed while on parole or
39 adjudication of delinquency for an act which, if committed by an adult,
40 would constitute a crime shall be deemed to constitute probable cause
41 to believe that the parolee has violated a condition of parole.

42 (cf: P.L.1995, c.280, s.42)

43

44 12. (New section) Notwithstanding any other provision of law to
45 the contrary, a person may serve as both the Commissioner of
46 Corrections and the Chairman of the State Parole Board; except that

1 the person shall receive only the salary of the Commissioner of
2 Corrections.

3

4 13. Section 3 of P.L.1993, c.246 (C.43:16A-1.4) is amended to
5 read as follows:

6 3. If the Board of Trustees of the Police and Fireman's Retirement
7 System of New Jersey makes a determination, pursuant to section 9 of
8 P.L.1989, c.204 (C.43:16A-1.2), that the parole officers employed by
9 the [Bureau of Parole in the Department of Corrections]State Parole
10 Board are eligible for membership in the Police and Firemen's
11 Retirement System pursuant to section 1 of P.L.1944, c.255
12 (C.43:16A-1), the enrollment of those parole officers shall occur no
13 earlier than one year after the effective date of this section pursuant to
14 P.L.1993, c.246 (C.43:16A-1.4 et al.).

15 (cf: P.L.1993, c.246, s.3)

16

17 14. Section 1 of P.L.1968, c.427 (C.2A:154-4) is amended to read
18 as follows:

19 1. All correction officers of the State of New Jersey, parole officers
20 employed by the [Bureau of Parole in the Department of Corrections]
21 State Parole Board and investigators in the Department of
22 Corrections, who have been or who may hereafter be appointed or
23 employed, shall, by virtue of such appointment or employment and in
24 addition to any other power or authority, be empowered to act as
25 officers for the detection, apprehension, arrest and conviction of
26 offenders against the law.

27 (cf: P.L.1993, c.246, s.1)

28

29 15. N.J.S.2C:39-6 is amended to read as follows:

30 2C:39-6. a. Provided a person complies with the requirements of
31 subsection j. of this section, N.J.S.2C:39-5 does not apply to:

32 (1) Members of the Armed Forces of the United States or of the
33 National Guard while actually on duty, or while traveling between
34 places of duty and carrying authorized weapons in the manner
35 prescribed by the appropriate military authorities;

36 (2) Federal law enforcement officers, and any other federal officers
37 and employees required to carry firearms in the performance of their
38 official duties;

39 (3) Members of the State Police and, under conditions prescribed
40 by the superintendent, members of the Marine Law Enforcement
41 Bureau of the Division of State Police;

42 (4) A sheriff, undersheriff, sheriff's officer, county prosecutor,
43 assistant prosecutor, prosecutor's detective or investigator, deputy
44 attorney general or State investigator employed by the Division of
45 Criminal Justice of the Department of Law and Public Safety,
46 investigator employed by the State Commission of Investigation,

1 inspector of the Alcoholic Beverage Control Enforcement Bureau of
2 the Division of State Police in the Department of Law and Public
3 Safety authorized to carry such weapons by the Superintendent of
4 State Police, State park ranger, or State conservation officer;

5 (5) A prison or jail warden of any penal institution in this State or
6 his deputies, or an employee of the Department of Corrections
7 engaged in the interstate transportation of convicted offenders, while
8 in the performance of his duties, and when required to possess the
9 weapon by his superior officer, or a correction officer or keeper of a
10 penal institution in this State at all times while in the State of New
11 Jersey, provided he annually passes an examination approved by the
12 superintendent testing his proficiency in the handling of firearms;

13 (6) A civilian employee of the United States Government under the
14 supervision of the commanding officer of any post, camp, station, base
15 or other military or naval installation located in this State who is
16 required, in the performance of his official duties, to carry firearms,
17 and who is authorized to carry such firearms by said commanding
18 officer, while in the actual performance of his official duties;

19 (7) (a) A regularly employed member, including a detective, of the
20 police department of any county or municipality, or of any State,
21 interstate, municipal or county park police force or boulevard police
22 force, at all times while in the State of New Jersey;

23 (b) A special law enforcement officer authorized to carry a weapon
24 as provided in subsection b. of section 7 of P.L.1985, c.439
25 (C.40A:14-146.14);

26 (c) An airport security officer or a special law enforcement officer
27 appointed by the governing body of any county or municipality, except
28 as provided in subsection b. of this section, or by the commission,
29 board or other body having control of a county park or airport or
30 boulevard police force, while engaged in the actual performance of his
31 official duties and when specifically authorized by the governing body
32 to carry weapons;

33 (8) A full-time, paid member of a paid or part-paid fire department
34 or force of any municipality who is assigned full-time or part-time to
35 an arson investigation unit created pursuant to section 1 of P.L.1981,
36 c.409 (C.40A:14-7.1) or to the county arson investigation unit in the
37 county prosecutor's office, while either engaged in the actual
38 performance of arson investigation duties or while actually on call to
39 perform arson investigation duties and when specifically authorized by
40 the governing body or the county prosecutor, as the case may be, to
41 carry weapons. Prior to being permitted to carry a firearm, such a
42 member shall take and successfully complete a firearms training course
43 administered by the Police Training Commission pursuant to P.L.1961,
44 c.56 (C.52:17B-66 et seq.), and shall annually qualify in the use of a
45 revolver or similar weapon prior to being permitted to carry a firearm;

46 (9) A juvenile corrections officer in the employment of the Juvenile

1 Justice Commission established pursuant to section 2 of P.L.1995,
2 c.284 (C.52:17B-170) subject to the regulations promulgated by the
3 commission.

4 b. Subsections a., b. and c. of N.J.S.2C:39-5 do not apply to:

5 (1) A law enforcement officer employed by a governmental agency
6 outside of the State of New Jersey while actually engaged in his
7 official duties, provided, however, that he has first notified the
8 superintendent or the chief law enforcement officer of the municipality
9 or the prosecutor of the county in which he is engaged; or

10 (2) A licensed dealer in firearms and his registered employees
11 during the course of their normal business while traveling to and from
12 their place of business and other places for the purpose of
13 demonstration, exhibition or delivery in connection with a sale,
14 provided, however, that the weapon is carried in the manner specified
15 in subsection g. of this section.

16 c. Provided a person complies with the requirements of subsection
17 j. of this section, subsections b. and c. of N.J.S.2C:39-5 do not apply
18 to:

19 (1) A special agent of the Division of Taxation who has passed an
20 examination in an approved police training program testing proficiency
21 in the handling of any firearm which he may be required to carry, while
22 in the actual performance of his official duties and while going to or
23 from his place of duty, or any other police officer, while in the actual
24 performance of his official duties;

25 (2) A State deputy conservation officer or a full-time employee of
26 the Division of Parks and Forestry having the power of arrest and
27 authorized to carry weapons, while in the actual performance of his
28 official duties;

29 (3) (Deleted by amendment, P.L.1986, c.150.)

30 (4) A court attendant serving as such under appointment by the
31 sheriff of the county or by the judge of any municipal court or other
32 court of this State, while in the actual performance of his official
33 duties;

34 (5) A guard in the employ of any railway express company,
35 banking or building and loan or savings and loan institution of this
36 State, while in the actual performance of his official duties;

37 (6) A member of a legally recognized military organization while
38 actually under orders or while going to or from the prescribed place
39 of meeting and carrying the weapons prescribed for drill, exercise or
40 parade;

41 (7) An officer of the Society for the Prevention of Cruelty to
42 Animals, while in the actual performance of his duties;

43 (8) An employee of a public utilities corporation actually engaged
44 in the transportation of explosives;

45 (9) A railway policeman, except a transit police officer of the New
46 Jersey Transit Police Department, at all times while in the State of

1 New Jersey, provided that he has passed an approved police academy
2 training program consisting of at least 280 hours. The training
3 program shall include, but need not be limited to, the handling of
4 firearms, community relations, and juvenile relations;

5 (10) A campus police officer appointed under P.L.1970, c.211
6 (C.18A:6-4.2 et seq.) at all times. Prior to being permitted to carry a
7 firearm, a campus police officer shall take and successfully complete
8 a firearms training course administered by the Police Training
9 Commission, pursuant to P.L.1961, c.56 (C.52:17B-66 et seq.), and
10 shall annually qualify in the use of a revolver or similar weapon prior
11 to being permitted to carry a firearm;

12 (11) A person who has not been convicted of a crime under the
13 laws of this State or under the laws of another state or the United
14 States, and who is employed as a full-time security guard for a nuclear
15 power plant under the license of the Nuclear Regulatory Commission,
16 while in the actual performance of his official duties;

17 (12) A transit police officer of the New Jersey Transit Police
18 Department, at all times while in the State of New Jersey, provided the
19 officer has satisfied the training requirements of the Police Training
20 Commission, pursuant to subsection c. of section 2 of P.L.1989, c.291
21 (C.27:25-15.1);

22 (13) A parole officer employed by the [Bureau of Parole in the
23 Department of Corrections] State Parole Board at all times. Prior to
24 being permitted to carry a firearm, a parole officer shall take and
25 successfully complete a basic course for regular police officer training
26 administered by the Police Training Commission, pursuant to
27 P.L.1961, c.56 (C.52:17B-66 et seq.), and shall annually qualify in the
28 use of a revolver or similar weapon prior to being permitted to carry
29 a firearm;

30 (14) A Human Services police officer at all times while in the State
31 of New Jersey, as authorized by the Commissioner of Human Services;

32 (15) A person or employee of any person who, pursuant to and as
33 required by a contract with a governmental entity, supervises or
34 transports persons charged with or convicted of an offense; or

35 (16) A housing authority police officer appointed under P.L.1997,
36 c.210 (C.40A:14-146.19 et al.) at all times while in the State of New
37 Jersey.

38 d. (1) Subsections c. and d. of N.J.S.2C:39-5 do not apply to
39 antique firearms, provided that such antique firearms are unloaded or
40 are being fired for the purposes of exhibition or demonstration at an
41 authorized target range or in such other manner as has been approved
42 in writing by the chief law enforcement officer of the municipality in
43 which the exhibition or demonstration is held, or if not held on
44 property under the control of a particular municipality, the
45 superintendent.

46 (2) Subsection a. of N.J.S.2C:39-3 and subsection d. of

1 N.J.S.2C:39-5 do not apply to an antique cannon that is capable of
2 being fired but that is unloaded and immobile, provided that the
3 antique cannon is possessed by (a) a scholastic institution, a museum,
4 a municipality, a county or the State, or (b) a person who obtained a
5 firearms purchaser identification card as specified in N.J.S.2C:58-3.

6 (3) Subsection a. of N.J.S.2C:39-3 and subsection d. of
7 N.J.S.2C:39-5 do not apply to an unloaded antique cannon that is
8 being transported by one eligible to possess it, in compliance with
9 regulations the superintendent may promulgate, between its permanent
10 location and place of purchase or repair.

11 (4) Subsection a. of N.J.S.2C:39-3 and subsection d. of
12 N.J.S.2C:39-5 do not apply to antique cannons that are being loaded
13 or fired by one eligible to possess an antique cannon, for purposes of
14 exhibition or demonstration at an authorized target range or in the
15 manner as has been approved in writing by the chief law enforcement
16 officer of the municipality in which the exhibition or demonstration is
17 held, or if not held on property under the control of a particular
18 municipality, the superintendent, provided that performer has given at
19 least 30 days' notice to the superintendent.

20 (5) Subsection a. of N.J.S.2C:39-3 and subsection d. of
21 N.J.S.2C:39-5 do not apply to the transportation of unloaded antique
22 cannons directly to or from exhibitions or demonstrations authorized
23 under paragraph (4) of subsection d. of this section, provided that the
24 transportation is in compliance with safety regulations the
25 superintendent may promulgate. Nor do those subsections apply to
26 transportation directly to or from exhibitions or demonstrations
27 authorized under the law of another jurisdiction, provided that the
28 superintendent has been given 30 days' notice and that the
29 transportation is in compliance with safety regulations the
30 superintendent may promulgate.

31 e. Nothing in subsections b., c. and d. of N.J.S.2C:39-5 shall be
32 construed to prevent a person keeping or carrying about his place of
33 business, residence, premises or other land owned or possessed by
34 him, any firearm, or from carrying the same, in the manner specified
35 in subsection g. of this section, from any place of purchase to his
36 residence or place of business, between his dwelling and his place of
37 business, between one place of business or residence and another when
38 moving, or between his dwelling or place of business and place where
39 such firearms are repaired, for the purpose of repair. For the purposes
40 of this section, a place of business shall be deemed to be a fixed
41 location.

42 f. Nothing in subsections b., c. and d. of N.J.S.2C:39-5 shall be
43 construed to prevent:

44 (1) A member of any rifle or pistol club organized in accordance
45 with the rules prescribed by the National Board for the Promotion of
46 Rifle Practice, in going to or from a place of target practice, carrying

1 such firearms as are necessary for said target practice, provided that
2 the club has filed a copy of its charter with the superintendent and
3 annually submits a list of its members to the superintendent and
4 provided further that the firearms are carried in the manner specified
5 in subsection g. of this section;

6 (2) A person carrying a firearm or knife in the woods or fields or
7 upon the waters of this State for the purpose of hunting, target
8 practice or fishing, provided that the firearm or knife is legal and
9 appropriate for hunting or fishing purposes in this State and he has in
10 his possession a valid hunting license, or, with respect to fresh water
11 fishing, a valid fishing license;

12 (3) A person transporting any firearm or knife while traveling:

13 (a) Directly to or from any place for the purpose of hunting or
14 fishing, provided the person has in his possession a valid hunting or
15 fishing license; or

16 (b) Directly to or from any target range, or other authorized place
17 for the purpose of practice, match, target, trap or skeet shooting
18 exhibitions, provided in all cases that during the course of the travel
19 all firearms are carried in the manner specified in subsection g. of this
20 section and the person has complied with all the provisions and
21 requirements of Title 23 of the Revised Statutes and any amendments
22 thereto and all rules and regulations promulgated thereunder; or

23 (c) In the case of a firearm, directly to or from any exhibition or
24 display of firearms which is sponsored by any law enforcement agency,
25 any rifle or pistol club, or any firearms collectors club, for the purpose
26 of displaying the firearms to the public or to the members of the
27 organization or club, provided, however, that not less than 30 days
28 prior to the exhibition or display, notice of the exhibition or display
29 shall be given to the Superintendent of the State Police by the
30 sponsoring organization or club, and the sponsor has complied with
31 such reasonable safety regulations as the superintendent may
32 promulgate. Any firearms transported pursuant to this section shall be
33 transported in the manner specified in subsection g. of this section;

34 (4) A person from keeping or carrying about a private or
35 commercial aircraft or any boat, or from transporting to or from such
36 vessel for the purpose of installation or repair a visual distress
37 signalling device approved by the United States Coast Guard.

38 g. All weapons being transported under paragraph (2) of
39 subsection b., subsection e., or paragraph (1) or (3) of subsection f. of
40 this section shall be carried unloaded and contained in a closed and
41 fastened case, gunbox, securely tied package, or locked in the trunk of
42 the automobile in which it is being transported, and in the course of
43 travel shall include only such deviations as are reasonably necessary
44 under the circumstances.

45 h. Nothing in subsection d. of N.J.S.2C:39-5 shall be construed
46 to prevent any employee of a public utility, as defined in R.S.48:2-13,

1 doing business in this State or any United States Postal Service
2 employee, while in the actual performance of duties which specifically
3 require regular and frequent visits to private premises, from
4 possessing, carrying or using any device which projects, releases or
5 emits any substance specified as being noninjurious to canines or other
6 animals by the Commissioner of Health and Senior Services and which
7 immobilizes only on a temporary basis and produces only temporary
8 physical discomfort through being vaporized or otherwise dispensed
9 in the air for the sole purpose of repelling canine or other animal
10 attacks.

11 The device shall be used solely to repel only those canine or other
12 animal attacks when the canines or other animals are not restrained in
13 a fashion sufficient to allow the employee to properly perform his
14 duties.

15 Any device used pursuant to this act shall be selected from a list of
16 products, which consist of active and inert ingredients, permitted by
17 the Commissioner of Health and Senior Services.

18 i. Nothing in N.J.S.2C:39-5 shall be construed to prevent any
19 person who is 18 years of age or older and who has not been convicted
20 of a felony, from possession for the purpose of personal self-defense
21 of one pocket-sized device which contains and releases not more than
22 three-quarters of an ounce of chemical substance not ordinarily
23 capable of lethal use or of inflicting serious bodily injury, but rather,
24 is intended to produce temporary physical discomfort or disability
25 through being vaporized or otherwise dispensed in the air. Any person
26 in possession of any device in violation of this subsection shall be
27 deemed and adjudged to be a disorderly person, and upon conviction
28 thereof, shall be punished by a fine of not less than \$100.00.

29 j. A person shall qualify for an exemption from the provisions of
30 N.J.S.2C:39-5, as specified under subsections a. and c. of this section,
31 if the person has satisfactorily completed a firearms training course
32 approved by the Police Training Commission.

33 Such exempt person shall not possess or carry a firearm until the
34 person has satisfactorily completed a firearms training course and shall
35 annually qualify in the use of a revolver or similar weapon. For
36 purposes of this subsection, a "firearms training course" means a
37 course of instruction in the safe use, maintenance and storage of
38 firearms which is approved by the Police Training Commission. The
39 commission shall approve a firearms training course if the
40 requirements of the course are substantially equivalent to the
41 requirements for firearms training provided by police training courses
42 which are certified under section 6 of P.L.1961, c.56 (C.52:17B-71).
43 A person who is specified in paragraph (1), (2), (3) or (6) of
44 subsection a. of this section shall be exempt from the requirements of
45 this subsection.

46 k. Nothing in subsection d. of N.J.S.2C:39-5 shall be construed

1 to prevent any financial institution, or any duly authorized personnel
2 of the institution, from possessing, carrying or using for the protection
3 of money or property, any device which projects, releases or emits tear
4 gas or other substances intended to produce temporary physical
5 discomfort or temporary identification.

6 1. Nothing in subsection b. of N.J.S.2C:39-5 shall be construed
7 to prevent a law enforcement officer who retired in good standing,
8 including a retirement because of a disability pursuant to section 6 of
9 P.L.1944, c.255 (C.43:16A-6), section 7 of P.L.1944, c.255
10 (C.43:16A-7), section 1 of P.L.1989, c.103 (C.43:16A-6.1) or any
11 substantially similar statute governing the disability retirement of
12 federal law enforcement officers, provided the officer was a regularly
13 employed, full-time law enforcement officer for an aggregate of five
14 or more years prior to his disability retirement and further provided
15 that the disability which constituted the basis for the officer's
16 retirement did not involve a certification that the officer was mentally
17 incapacitated for the performance of his usual law enforcement duties
18 and any other available duty in the department which his employer was
19 willing to assign to him or does not subject that retired officer to any
20 of the disabilities set forth in subsection c. of N.J.S.2C:58-3 which
21 would disqualify the retired officer from possessing or carrying a
22 firearm, who semi-annually qualifies in the use of the handgun he is
23 permitted to carry in accordance with the requirements and procedures
24 established by the Attorney General pursuant to subsection j. of this
25 section and pays the actual costs associated with those semi-annual
26 qualifications, who is less than 70 years of age, and who was regularly
27 employed as a full-time member of the State Police; a full-time
28 member of an interstate police force; a full-time member of a county
29 or municipal police department in this State; a full-time member of a
30 State law enforcement agency; a full-time sheriff, undersheriff or
31 sheriff's officer of a county of this State; a full-time State or county
32 corrections officer; a full-time county park police officer; a full-time
33 county prosecutor's detective or investigator; or a full-time federal law
34 enforcement officer from carrying a handgun in the same manner as
35 law enforcement officers exempted under paragraph (7) of subsection
36 a. of this section under the conditions provided herein:

37 (1) The retired law enforcement officer, within six months after
38 retirement, shall make application in writing to the Superintendent of
39 State Police for approval to carry a handgun for one year. An
40 application for annual renewal shall be submitted in the same manner.

41 (2) Upon receipt of the written application of the retired law
42 enforcement officer, the superintendent shall request a verification of
43 service from the chief law enforcement officer of the organization in
44 which the retired officer was last regularly employed as a full-time law
45 enforcement officer prior to retiring. The verification of service shall
46 include:

- 1 (a) The name and address of the retired officer;
- 2 (b) The date that the retired officer was hired and the date that the
3 officer retired;
- 4 (c) A list of all handguns known to be registered to that officer;
- 5 (d) A statement that, to the reasonable knowledge of the chief law
6 enforcement officer, the retired officer is not subject to any of the
7 restrictions set forth in subsection c. of N.J.S.2C:58-3; and
- 8 (e) A statement that the officer retired in good standing.
- 9 (3) If the superintendent approves a retired officer's application or
10 reapplication to carry a handgun pursuant to the provisions of this
11 subsection, the superintendent shall notify in writing the chief law
12 enforcement officer of the municipality wherein that retired officer
13 resides. In the event the retired officer resides in a municipality which
14 has no chief law enforcement officer or law enforcement agency, the
15 superintendent shall maintain a record of the approval.
- 16 (4) The superintendent shall issue to an approved retired officer an
17 identification card permitting the retired officer to carry a handgun
18 pursuant to this subsection. This identification card shall be valid for
19 one year from the date of issuance and shall be valid throughout the
20 State. The identification card shall not be transferable to any other
21 person. The identification card shall be carried at all times on the
22 person of the retired officer while the retired officer is carrying a
23 handgun. The retired officer shall produce the identification card for
24 review on the demand of any law enforcement officer or authority.
- 25 (5) Any person aggrieved by the denial of the superintendent of
26 approval for a permit to carry a handgun pursuant to this subsection
27 may request a hearing in the Superior Court of New Jersey in the
28 county in which he resides by filing a written request for such a
29 hearing within 30 days of the denial. Copies of the request shall be
30 served upon the superintendent and the county prosecutor. The
31 hearing shall be held within 30 days of the filing of the request, and no
32 formal pleading or filing fee shall be required. Appeals from the
33 determination of such a hearing shall be in accordance with law and
34 the rules governing the courts of this State.
- 35 (6) A judge of the Superior Court may revoke a retired officer's
36 privilege to carry a handgun pursuant to this subsection for good cause
37 shown on the application of any interested person. A person who
38 becomes subject to any of the disabilities set forth in subsection c. of
39 N.J.S.2C:58-3 shall surrender, as prescribed by the superintendent, his
40 identification card issued under paragraph (4) of this subsection to the
41 chief law enforcement officer of the municipality wherein he resides or
42 the superintendent, and shall be permanently disqualified to carry a
43 handgun under this subsection.
- 44 (7) The superintendent may charge a reasonable application fee to
45 retired officers to offset any costs associated with administering the
46 application process set forth in this subsection.

1 m. Nothing in subsection d. of N.J.S.2C:39-5 shall be construed
2 to prevent duly authorized personnel of the New Jersey Division of
3 Fish, Game and Wildlife, while in the actual performance of duties,
4 from possessing, transporting or using any device that projects,
5 releases or emits any substance specified as being non-injurious to
6 wildlife by the Director of the Division of Animal Health in the
7 Department of Agriculture, and which may immobilize wildlife and
8 produces only temporary physical discomfort through being vaporized
9 or otherwise dispensed in the air for the purpose of repelling bear or
10 other animal attacks or for the aversive conditioning of wildlife.

11 n. Nothing in subsection b., c., d. or e. of N.J.S.2C:39-5 shall be
12 construed to prevent duly authorized personnel of the New Jersey
13 Division of Fish, Game and Wildlife, while in the actual performance
14 of duties, from possessing, transporting or using hand held pistol-like
15 devices, rifles or shotguns that launch pyrotechnic missiles for the sole
16 purpose of frightening, hazing or aversive conditioning of nuisance or
17 depredating wildlife; from possessing, transporting or using rifles,
18 pistols or similar devices for the sole purpose of chemically
19 immobilizing wild or non-domestic animals; or, provided the duly
20 authorized person complies with the requirements of subsection j. of
21 this section, from possessing, transporting or using rifles or shotguns,
22 upon completion of a Police Training Commission approved training
23 course, in order to dispatch injured or dangerous animals or for
24 non-lethal use for the purpose of frightening, hazing or aversive
25 conditioning of nuisance or depredating wildlife.

26 (cf: P.L.1997, c.393, s.1)

27

28 16. Section 2 of P.L.1997, c.117 (C.2C:43-7.2) is amended to read
29 as follows:

30 2. a. A court imposing a sentence of incarceration for a crime of
31 the first or second degree shall fix a minimum term of 85% of the
32 sentence during which the defendant shall not be eligible for parole if
33 the crime is a violent crime as defined in subsection d. of this section.

34 b. The provisions of subsection a. of this section shall not be
35 construed or applied to reduce the time that must be served before
36 eligibility for parole by an inmate sentenced to a mandatory minimum
37 period of incarceration.

38 c. Notwithstanding any other provision of law to the contrary and
39 in addition to any other sentence imposed, a court imposing a
40 minimum period of parole ineligibility of 85 percent of the sentence
41 pursuant to this section shall also, unless the court imposes a sentence
42 of lifetime parole supervision pursuant to P.L. , c. (C.)(now
43 pending before the Legislature as Senate Bill No. 524 SCS), impose
44 a five-year term of parole supervision if the defendant is being
45 sentenced for a crime of the first degree, or a three-year term of parole
46 supervision if the defendant is being sentenced for a crime of the

1 second degree. The term of parole supervision shall commence upon
2 the completion of the sentence of incarceration imposed by the court
3 pursuant to subsection a. of this section unless the defendant is serving
4 a sentence of incarceration for another crime at the time he completes
5 the sentence of incarceration imposed pursuant to subsection a., in
6 which case the term of parole supervision shall commence immediately
7 upon the defendant's release from incarceration. During the term of
8 parole supervision the defendant shall remain in release status in the
9 community in the legal custody of the Commissioner of the
10 Department of Corrections and shall be supervised by the [Bureau of
11 Parole of the Department of Corrections] State Parole Board as if on
12 parole and shall be subject to the provisions and conditions of section
13 3 of P.L.1997, c.117 (C.30:4-123.51b).

14 d. For the purposes of this section, "violent crime" means any
15 crime in which the actor causes death, causes serious bodily injury as
16 defined in subsection b. of N.J.S.2C:11-1, or uses or threatens the
17 immediate use of a deadly weapon. "Violent crime" also includes any
18 aggravated sexual assault or sexual assault in which the actor uses, or
19 threatens the immediate use of, physical force.

20 For the purposes of this section, "deadly weapon" means any
21 firearm or other weapon, device, instrument, material or substance,
22 whether animate or inanimate, which in the manner it is used or is
23 intended to be used, is known to be capable of producing death or
24 serious bodily injury.

25 e. A court shall not impose sentence pursuant to this section unless
26 the ground therefor has been established at a hearing after the
27 conviction of the defendant and on written notice to him of the ground
28 proposed. The defendant shall have the right to hear and controvert
29 the evidence against him and to offer evidence upon the issue.

30 (cf: P.L.1997, c.117, s.1)

31

32 17. This act shall take effect immediately .

33

34

35

STATEMENT

36

37 Presently, two agencies have the responsibility for parole: the State
38 Parole Board and the Bureau of Parole. The State Parole Board,
39 which operates as an autonomous agency, determines when an inmate
40 who is eligible for parole may be safely released. The Bureau of
41 Parole, which is in the Department of Corrections, is charged with the
42 responsibility of supervising an inmate once that inmate is released.

43 This bill would transfer the Bureau of Parole to the State Parole
44 Board consolidating the two agencies under one direct authority. This
45 bill attempts to address the current problems in the system which
46 results in a lack of coordination between the two agencies especially

1 with regard to notification of the appropriate authorities when an
2 inmate is scheduled for release. Under the provisions of the bill the
3 State Parole Board would be charged with the responsibilities of
4 notifying the prosecutor when an inmate is scheduled to be released.

5 In addition, this bill would allow the Commissioner of Corrections
6 to serve as both the Commissioner of Corrections and the Chairman
7 of the State Parole Board but to receive only the salary of the
8 Commissioner of Corrections.

ASSEMBLY LAW AND PUBLIC SAFETY COMMITTEE

STATEMENT TO

ASSEMBLY, No. 3214

with committee amendments

STATE OF NEW JERSEY

DATED: FEBRUARY 26, 2001

The Assembly Law and Public Safety Committee reports favorably and with committee amendments Assembly Bill No. 3214.

Assembly Bill No. 3214 transfers the Bureau of Parole to the State Parole Board to consolidate the two agencies under one direct authority. Under current law, the State Parole Board, which operates as an autonomous agency, determines when an inmate who is eligible for parole may be safely released. The Bureau of Parole, which is currently in the Department of Corrections, is responsible for supervising an inmate once that inmate is released.

The purpose of the bill is to address current problems in the system caused by lack of coordination between the two agencies, particularly in regard to notification of the appropriate authorities when an inmate is scheduled for release. Under the provisions of the bill, the State Parole Board would be responsible for notifying the prosecutor when an inmate is scheduled to be released.

The committee amendments delete a provision which would have allowed a person to serve as both Commissioner of Corrections and Chairman of the State Parole Board. The amendments also clarify that any sworn member of the Division of Parole is eligible to act as Director of Parole Supervision. The amendments also make clarifying and technical corrections.

As amended and reported by the committee, this bill is identical to Senate Bill No. 2026(1R).

[First Reprint]

ASSEMBLY, No. 3214

STATE OF NEW JERSEY
209th LEGISLATURE

INTRODUCED FEBRUARY 15, 2001

Sponsored by:

Assemblyman JAMES W. HOLZAPFEL

District 10 (Monmouth and Ocean)

Assemblyman KEVIN J. O'TOOLE

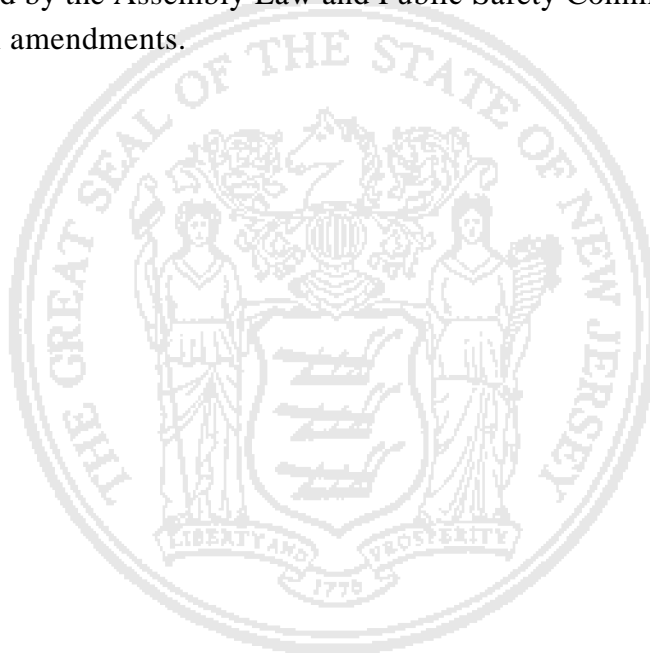
District 21 (Essex and Union)

SYNOPSIS

Transfers the Bureau of Parole in the Department of Corrections to the State Parole Board.

CURRENT VERSION OF TEXT

As reported by the Assembly Law and Public Safety Committee on March 1, 2001, with amendments.



(Sponsorship Updated As Of: 3/27/2001)

1 AN ACT concerning parole and revising various parts of the statutory
2 law.

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

6
7 1. (New section). a. All functions, powers and duties of the
8 existing Bureau of Parole in the Department of Corrections are hereby
9 transferred to the State Parole Board.

10 b. All files, books, papers, records, equipment and other property
11 of the Bureau of Parole in the Department of Corrections shall be
12 transferred to the State Parole Board.

13 c. All appropriations and other moneys available and to become
14 available to the Bureau of Parole in the Department of Corrections,
15 the functions, powers and duties of which have been assigned or
16 transferred herein, are hereby transferred to the State Parole Board
17 and shall be available for the objects and purposes for which
18 appropriated, subject to any terms, restrictions, limitations or other
19 requirements imposed by State or Federal law.

20 d. The employees of the Bureau of Parole in the Department of
21 Corrections are hereby transferred to the State Parole Board.

22 e. Nothing in P.L. c, (C.)(now pending before the
23 Legislature as this bill) shall be construed to deprive any person of any
24 tenure rights or of any right or protection provided him by Title 11 of
25 the Revised Statutes, Civil Service, or under any pension law or
26 retirement system.

27 f. P.L. c, (C.)(now pending before the Legislature as this bill)
28 shall not affect actions or proceedings, civil or criminal, brought by
29 or against the Bureau of Parole in the Department of Corrections, the
30 functions, powers and duties of which have been herein assigned or
31 transferred to the State Parole Board.

32
33 2. Section 1 of P.L.1979, c.441 (C.30:4-123.45) is amended to
34 read as follows:

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

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

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

40 (2) "Juvenile inmate" means any person under commitment as a
41 juvenile delinquent pursuant to section 25 of P.L.1982, c.77
42 (C.2A:4A-44).

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 Assembly ALP committee amendments adopted March 1, 2001.

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

4 (4) "Primary parole eligibility date" means that date established for
5 parole eligibility for adult inmates pursuant to section 7 or 20 of this
6 act.

7 (5) "Public notice" shall consist of lists including names of all
8 inmates being considered for parole, the county from which he was
9 committed and the crime for which he was incarcerated. At least 30
10 days prior to parole consideration such lists shall be forwarded to the
11 prosecutor's office of each county, the sentencing court, the office of
12 the Attorney General, any other criminal justice agencies whose
13 information and comment may be relevant, and news organizations.

14 (6) Removal for "cause" means such substantial cause as is plainly
15 sufficient under the law and sound public policy touching upon
16 qualifications appropriate to a member of the parole board or the
17 administration of said board such that the public interest precludes the
18 member's continuance in office. Such cause includes, but is not limited
19 to, misconduct in office, incapacity, inefficiency and nonfeasance.

20 (7) "Commission" means the Juvenile Justice Commission
21 established pursuant to section 2 of P.L.1995, c.284 (C.52:17B-170).

22 (8) "Parole officer" means, with respect to an adult inmate, an
23 officer assigned by the [Bureau of Parole] Chairman of the State
24 Parole Board or his designee and, with respect to a juvenile inmate,
25 a person assigned by the commission.

26 (cf: P.L.1995, c.280, s.34).

27

28 3. Section 1 of P.L.1997, c.215 (C.30:4-123.47a) is amended to
29 read as follows:

30 1. There is hereby established a Parole Advisory Board in, but not
31 of, the [Bureau of Parole] State Parole Board. Notwithstanding the
32 allocation of the board within the [bureau] State Parole Board, the
33 [bureau] State Parole Board or any employee thereof shall not exercise
34 any control over the [board] Parole Advisory Board. The advisory
35 board shall consist of 23 members. It shall include in its membership
36 the [Chief of the Bureau of Parole in the Department of Corrections]
37 Chairman of the State Parole Board or his designee, who shall serve
38 ex officio; one member representing each of the following
39 organizations and groups, who shall be appointed by the Governor:
40 [the State Parole Board,] the Department of Corrections, the
41 Department of Health and Senior Services, the Department of Law and
42 Public Safety, Office of the Governor, the Administrative Office of the
43 Courts, the Victims of Crime Compensation Board, the New Jersey
44 Chapter of the American Correctional Association, the County
45 Prosecutors Association of New Jersey, the Sheriffs' Association of
46 New Jersey, the New Jersey Wardens Association, the New Jersey

1 State Association of Chiefs of Police, the American Parole and
2 Probation Association, Governor's Council on Alcoholism and Drug
3 Abuse, the community at large, treatment providers, victims' rights
4 groups and former inmates who have successfully completed parole.
5 Two members of the Senate, who shall not be of the same political
6 party and who shall serve during their terms of office, shall be
7 appointed by the President of the Senate. Two members of the
8 General Assembly, who shall not be of the same political party and
9 who shall serve during their terms of office, shall be appointed by the
10 Speaker of the General Assembly.

11 Members of the advisory board shall be appointed with the advice
12 and consent of the Senate, and serve a term of three years, except for
13 the initial gubernatorial appointees, six of whom shall serve for two
14 years and six of whom shall serve for four years. Each member shall
15 serve for the term of appointment and until a successor is appointed.
16 A member may be reappointed to the advisory board. A member
17 appointed to fill a vacancy occurring in the membership of the advisory
18 board for any reason other than the expiration of the term shall serve
19 a term of appointment for the unexpired term only. All vacancies shall
20 be filled in the same manner as the original appointments. Any
21 appointed member of the advisory board, except the legislative
22 members, may be removed from the advisory board by the Governor,
23 for cause, after a hearing, and may be suspended by the Governor
24 pending the completion of the hearing. Legislative members may be
25 removed for cause by the leader of their respective houses. Motions
26 and resolutions may be adopted by the advisory board at a board
27 meeting by an affirmative vote of not less than 12 members.

28 Members of the advisory board shall serve without compensation
29 but shall be entitled to reimbursement for actual expenses of serving
30 on the board, to the extent that funds are available for this purpose.

31 The advisory board shall organize as soon as possible after the
32 appointment of its members. The members shall select a chair from
33 among their number.

34 (cf: P.L.1997, c.215, s.1).

35

36 4. Section 2 of P.L.1997, c.215 (C.30:4-123.47b.) is amended to
37 read as follows:

38 2. It shall be the duty of the advisory board to review and comment
39 on supervision issues, the development and implementation of drug
40 and alcohol treatment programs for parolees, and any other issues as
41 requested by the **[Commissioner of Corrections] State Parole Board**,
42 taking into consideration all relevant research **[conducted by the**
43 **Bureau of Parole]**. The advisory board shall sponsor conferences
44 with criminal justice administrators and community members, including
45 treatment providers, in order to educate all interested parties in the
46 importance of relapse prevention and treatment for specialized cases,

1 and to address issues such as lowering costs, developing protocols for
2 confidentiality, identifying the type and amount of treatment that
3 should be available, and promoting community involvement in the
4 reintegration process. The advisory board may make
5 recommendations to the Commissioner of Corrections, the Chairman
6 of the State Parole Board, the Legislature and the Governor in these
7 matters.

8 The advisory board shall meet at least semiannually and may hold
9 hearings at any place or places it shall designate during the sessions or
10 recesses of the Legislature. The ~~[Bureau of Parole]~~ State Parole
11 Board shall have primary responsibility for providing staff services and
12 other necessary support to the board. The advisory board may also
13 request the assistance and services of the employees of any State,
14 county or municipal department, board, bureau, commission, task
15 force or agency as it may require and as may be available to it for its
16 purposes. The advisory board may, within the limits of funds
17 appropriated or otherwise made available to it for its purposes, employ
18 stenographic and clerical assistants and incur travel and miscellaneous
19 expenses necessary for the performance of its duties.

20 (cf: P.L.1997, c.215, s.2).

21

22 5. Section 4 of P.L.1979, c.441 (C.30:4-123.48) is amended to
23 read as follows:

24 4. a. All policies and determinations of the Parole Board shall be
25 made by the majority vote of the members.

26 b. Except where otherwise noted, parole determinations on
27 individual cases pursuant to this act shall be made by the majority vote
28 of a quorum of the appropriate board panel established pursuant to this
29 section.

30 c. The chairman of the board shall be the chief executive officer of
31 the board and, after consulting with the board, shall be responsible for
32 designating the time and place of all board meetings, for appointing the
33 board's employees, for organizing, controlling and directing the work
34 of the board and its employees, and for preparation and justification of
35 the board's budget. The nonsecretarial professional and supervisory
36 employees of the board such as, but not limited to, hearing officers,
37 shall serve at the pleasure of the chairman and shall not be subject to
38 the provisions of Title ¹[11] 11A¹ of the Revised Statutes. ~~[Nothing~~
39 ~~contained herein shall be deemed to affect the employees of the~~
40 ~~Department of Corrections, such as parole officers assigned to~~
41 ~~supervise parolees]~~ Parole officers assigned to supervise parolees and
42 all supervisory titles associated with the supervision of parolees in the
43 parole officer series shall be classified employees subject to the
44 provisions of Title ¹[11] 11A¹ of the Revised Statutes. Parole
45 officers assigned to supervise parolees and all supervisory titles
46 associated with the supervision of parolees in the parole officer job

1 classification series shall be organizationally assigned to the State
2 Parole Board with a ¹ [designee promoted through the ranks of the
3 parole officer job classification series to act as director of parole
4 supervision] sworn member of the Division of Parole appointed to act
5 as director of parole supervision¹. The director of parole supervision
6 shall report directly to the Chairman of the State Parole Board.

7 d. The board shall promulgate such reasonable rules and
8 regulations, consistent with this act, as may be necessary for the
9 proper discharge of its responsibilities. The chairman shall file such
10 rules and regulations with the Secretary of State. The provisions of
11 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
12 seq.) shall apply to the promulgation of rules and regulations
13 concerning policy and administration, but not to other actions taken
14 under this act, such as parole hearings, parole revocation hearings and
15 review of parole cases. In determination of its rules and regulations
16 concerning policy and administration, the board shall consult the
17 Governor, the Commissioner of Corrections and the Juvenile Justice
18 Commission established pursuant to section 2 of P.L.1995, c.284
19 (C.52:17B-170).

20 e. The board, in conjunction with the Department of Corrections
21 and the Juvenile Justice Commission, shall develop a uniform
22 information system in order to closely monitor the parole process.
23 Such system shall include participation in the Uniform Parole Reports
24 of the National Council on Crime and Delinquency.

25 f. The board shall transmit a report of its work for the preceding
26 fiscal year, including information on the causes and extent of parole
27 recidivism, to the Governor, the Legislature and the Juvenile Justice
28 Commission annually.

29 g. The board shall give public notice prior to considering any adult
30 inmate for release.

31 h. The board shall give notice to the appropriate prosecutor's office
32 and to the committing court prior to the initial consideration of any
33 juvenile inmate for release.

34 (cf: P.L.1995, c.280, s.35)

35

36 6. Section 3 of P.L.1997, c.117 (C.30:4-123.51b.) is amended to
37 read as follows:

38 3. a. A person who has been sentenced to a term of parole
39 supervision and is on release status in the community pursuant to
40 section 2 of P.L.1997, c.117 (C.2C:43-7.2) shall, during the term of
41 parole supervision, remain on release status in the community, in the
42 legal custody of the Commissioner of the Department of Corrections,
43 and shall be supervised by the [Bureau of Parole of the Department
44 of Corrections] parole officers in the State Parole Board as if on
45 parole, and shall be subject to the provisions and conditions set by the
46 appropriate board panel. The appropriate board panel shall have the

1 authority, in accordance with the procedures and standards set forth
2 in sections 15 through 21 of P.L.1979, c.441 (C.30:4-123.59 through
3 30:4-123.65), to revoke the person's release status and return the
4 person to custody for the remainder of the term or until it is
5 determined, in accordance with regulations adopted by the board, that
6 the person is again eligible for release consideration pursuant to
7 section 9 of P.L.1979, c.441 (C.30:4-123.53).

8 b. The Parole Board shall promulgate rules and regulations
9 necessary to carry out the purposes of this act pursuant to the
10 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
11 seq.).

12 (cf: P.L.1997, c.117, s.3)

13
14 7. Section 1 of P.L.1997, c.214 (C.30:4-123.51c) is amended to
15 read as follows:

16 1. a. (1) For the purpose of this section, "terminal condition,
17 disease or syndrome" means a prognosis by the licensed physicians
18 designated by the Commissioner of Corrections pursuant to subsection
19 b. of this section that an inmate has six months or less to live.

20 (2) Except as otherwise provided in paragraph (3) of this
21 subsection, the appropriate board panel may release on medical parole
22 any inmate serving any sentence of imprisonment who has been
23 diagnosed pursuant to subsection b. of this section as suffering from
24 a terminal condition, disease or syndrome and is found by the
25 appropriate board panel to be so debilitated or incapacitated by the
26 terminal condition, disease or syndrome as to be permanently
27 physically incapable of committing a crime if released on parole.
28 Notwithstanding any provision of P.L.1979, c.441 (C.30:4-123.45 et
29 seq.) to the contrary, the appropriate board panel may release any such
30 inmate at any time during the term of the sentence. An inmate placed
31 on parole pursuant to this section shall be subject to custody,
32 supervision and conditions as provided in section 15 of P.L.1979,
33 c.441 [(C.30:3-123.59)] (C.30:4-123.59) and shall be subject to
34 sanctions for a violation of a condition of parole as provided in
35 sections 16 through 21 of P.L.1979, c.441 (C.30:4-123.60 through
36 30:4-123.65).

37 (3) No inmate serving any sentence for a violation of
38 N.J.S.2C:11-3; N.J.S.2C:11-4; N.J.S.2C:13-1; subsection a. of
39 N.J.S.2C:14-2; N.J.S.2C:15-1 in which the inmate, while in the course
40 of committing the theft, attempted to kill another, or purposely
41 inflicted or attempted to inflict serious bodily injury, or was armed
42 with or used or threatened the immediate use of a deadly weapon;
43 subsection a. of N.J.S.2C:17-1; or N.J.S.2C:24-4 or an attempt to
44 commit any of these offenses shall be eligible for the medical parole
45 authorized under paragraph (2) of this section.

46 b. A medical diagnosis that an inmate is suffering from a terminal

1 condition, disease or syndrome shall be made by two licensed
2 physicians designated by the Commissioner of Corrections. The
3 diagnosis shall include, but not be limited to:

- 4 (1) a description of the terminal condition, disease or syndrome;
- 5 (2) a prognosis concerning the likelihood of recovery from the
6 terminal condition, disease or syndrome;
- 7 (3) a description of the inmate's physical incapacity; and
- 8 (4) a description of the type of ongoing treatment that would be
9 required if the inmate were released on medical parole.

10 c. A request for a medical diagnosis to determine whether an
11 inmate is eligible for a medical parole under this section may be
12 submitted to the appropriate board panel by the Commissioner of
13 Corrections, the administrator or superintendent of a correctional
14 facility; the inmate; a member of the inmate's family or the inmate's
15 attorney. The request shall be submitted in a manner and form
16 prescribed by the board.

17 d. At least five working days prior to commencing its review of a
18 request for a medical parole, the appropriate board panel shall notify
19 the appropriate sentencing court; county prosecutor or, if the matter
20 was prosecuted by the Attorney General, the Attorney General; and
21 any victim or member of the family of a victim entitled to notice
22 relating to a parole or the consideration of a parole under the
23 provisions of P.L.1979, c.441 (C.30:4-123.45 et seq.). The notice
24 shall be given in the manner prescribed by the board and shall contain
25 all such information and documentation relating to the medical
26 diagnosis prepared pursuant to subsection b. of this section as the
27 board shall deem appropriate and necessary.

28 Upon receipt of the notice, the sentencing court; county prosecutor
29 or Attorney General, as the case may be; the victim or member of the
30 family of the victim, as the case may be, shall have 10 working days
31 to review the notice and submit comments to the appropriate board
32 panel. If a recipient of the notice does not submit comments within
33 that 10-day period following the receipt of the notice, the panel may
34 presume that the recipient does not wish to submit comments and
35 proceed with its consideration of the request for medical parole. Any
36 comments provided by a recipient shall be delivered to the appropriate
37 board panel in the same manner or by the same method as notice was
38 given by the panel to that recipient.

39 The information contained in any notice given by a panel pursuant
40 to this subsection and the contents of any comments submitted by a
41 recipient in response thereto shall be confidential and shall not be
42 disclosed to any person who is not authorized to receive or review that
43 information or those comments.

44 Notice given under the provisions of this subsection shall be in lieu
45 of any other notice of parole consideration required under P.L.1979,
46 c.441 (C.30:4-123.45 et seq.).

1 Nothing in this subsection shall be construed to impair any party's
2 right to be heard pursuant to P.L.1979, c.441 (C.30:4-123.45 et seq.).

3 e. The appropriate board panel shall conduct its review of a request
4 for medical parole as expeditiously as possible.

5 The appropriate board panel shall provide written notice of its
6 decision to the sentencing court; the county prosecutor or Attorney
7 General, as the case may be; and any victim or member of a victim's
8 family given notice pursuant to subsection d. of this section.

9 f. Whenever an inmate is granted medical parole pursuant to this
10 section, the appropriate board shall require, as a condition precedent
11 to release, that the inmate's release plan include:

12 (1) identification of a community sponsor;

13 (2) verification of the availability of appropriate medical services
14 sufficient to meet the treatment requirements identified pursuant to
15 paragraph (4) of subsection b. of this section; and

16 (3) verification of appropriate housing which may include, but need
17 not be limited to, a hospital, hospice, nursing home facility or other
18 housing accommodation suitable to the inmate's medical condition,
19 disease or syndrome.

20 g. In addition to any conditions imposed pursuant to section 15 of
21 P.L.1979, c.441 (C.30:4-123.59), as a condition of release on medical
22 parole, the appropriate board panel may require an inmate to submit
23 to periodic medical diagnoses by a licensed physician.

24 h. If, after review of a medical diagnosis required under the
25 provisions of subsection g. of this section, the appropriate board panel
26 determines that a parolee released on medical parole is no longer so
27 debilitated or incapacitated by a terminal condition, disease or
28 syndrome as to be physically incapable of committing a crime, the
29 parolee shall be returned to confinement in an appropriate facility
30 designated by the Commissioner of Corrections.

31 A decision to return the parolee to confinement pursuant to this
32 subsection shall be rendered only after a hearing by the appropriate
33 board panel or by a hearing officer designated by the chairman of the
34 board. Nothing in this subsection shall be construed to limit the
35 authority of the board, an appropriate board panel or [any] parole
36 officer of the State Parole Board to address a violation of a condition
37 of parole pursuant to sections 16 through 21 of P.L.1979, c.441
38 (C.30:4-123.60 through 30:4-123.65).

39 i. The denial of a request for medical parole or the return of a
40 parolee to confinement under the provisions of subsection h. of this
41 section shall not preclude that inmate from being considered for parole
42 pursuant to subsection a. of section 7 of P.L.1979, c.441
43 (C.30:4-123.51).

44 (cf: P.L.1997, c.214, s.1)

45
46 8. Section 1 of P.L. 1994, c. 135 (C.30:4-123.53a.) is amended to

1 read as follows:

2 1. a. As used in this act: "Prosecutor" means the county
3 prosecutor of the county in which the defendant was convicted unless
4 the matter was prosecuted by the Attorney General, in which case
5 "prosecutor" means the Attorney General.

6 "Office of Victim Witness Advocacy" means the Office of Victim
7 Witness Advocacy of the county in which the defendant was
8 convicted.

9 b. Notwithstanding any other provision of law to the contrary, the
10 [Department of Corrections] State Parole Board shall provide written
11 notice to the prosecutor of the anticipated release from incarceration
12 in a county or State penal institution or the Adult Diagnostic and
13 Treatment Center of a person convicted of murder; manslaughter;
14 aggravated sexual assault; sexual assault; aggravated assault;
15 aggravated criminal sexual contact; kidnapping pursuant to paragraph
16 (2) of subsection c. of N.J.S.2C:13-1; endangering the welfare of a
17 child by engaging in sexual conduct which would impair or debauch
18 the morals of the child pursuant to subsection a. of N.J.S.2C:24-4;
19 endangering the welfare of a child pursuant to paragraph (4) of
20 subsection b. of N.J.S.2C:24-4; luring or enticing pursuant to section
21 1 of P.L.1993, c.291 (C.2C:13-6); any other offense involving serious
22 bodily injury or an attempt to commit any of the aforementioned
23 offenses.

24 c. Notwithstanding any other provision of law to the contrary, the
25 Juvenile Justice Commission established pursuant to section 2 of
26 P.L.1995, c.284 (C.52:17B-170) shall provide written notice to the
27 prosecutor of the anticipated release from incarceration of a juvenile
28 adjudicated delinquent on the basis of an offense which, if committed
29 by an adult, would constitute murder; manslaughter; aggravated sexual
30 assault; sexual assault; aggravated assault; aggravated criminal sexual
31 contact; kidnapping pursuant to paragraph (2) of subsection c. of
32 N.J.S.2C:13-1; endangering the welfare of a child by engaging in
33 sexual conduct which would impair or debauch the morals of the child
34 pursuant to subsection a. of N.J.S.2C:24-4; endangering the welfare
35 of a child pursuant to paragraph (4) of subsection b. of N.J.S.2C:24-4;
36 luring or enticing pursuant to section 1 of P.L.1993, c.291
37 (C.2C:13-6); any other offense involving serious bodily injury or an
38 attempt to commit any of the aforementioned offenses.

39 d. If available, the notice shall be provided to the prosecutor 90
40 days before the inmate's anticipated release; provided however, the
41 notice shall be provided at least 30 days before release. The notice
42 shall include the person's name, identifying factors, offense history,
43 and anticipated future residence. The prosecutor shall notify the
44 Office of Victim and Witness Advocacy and that office shall use any
45 reasonable means available to them to notify the victim of the
46 anticipated release unless the victim has requested not to be notified.

1 e. Upon receipt of notice, the prosecutor shall provide notice to
2 the law enforcement agency responsible for the municipality where the
3 inmate will reside, the municipality in which any victim resides, and
4 such other State and local law enforcement agencies as appropriate for
5 public safety.

6 (cf: P.L.1995, c.280, s.37)

7
8 9. Section 15 of P.L.1979, c.441 (C.30:4-123.59) is amended to
9 read as follows:

10 15. a. Each adult parolee shall at all times remain in the legal
11 custody of the Commissioner of Corrections and under the supervision
12 of the State Parole Board and each juvenile parolee shall at all times
13 remain in the legal custody of the Juvenile Justice Commission
14 established pursuant to section 2 of P.L.1995, c.284 (C.52:17B-170)
15 and under the supervision of the State Parole Board , except that the
16 Commissioner of Corrections or the Executive Director of the Juvenile
17 Justice Commission, after providing notice to the Attorney General,
18 may consent to the supervision of a parolee by the federal government
19 pursuant to the Witness Security Reform Act, Pub.L.98-473 (18
20 U.S.C. s.3251 et seq.). A parolee, except those under the Witness
21 Security Reform Act, shall remain under the supervision of the
22 [Bureau of Parole] State Parole Board and in the legal custody of the
23 Department of Corrections or the Juvenile Justice Commission, as
24 appropriate, in accordance with the policies and rules of the board.

25 b. Each parolee shall agree, as evidenced by his signature to abide
26 by specific conditions of parole established by the appropriate board
27 panel which shall be enumerated in writing in a certificate of parole
28 and shall be given to the parolee upon release. Such conditions shall
29 include, among other things, a requirement that the parolee conduct
30 himself in society in compliance with all laws and refrain from
31 committing any crime, a requirement that the parolee will not own or
32 possess any firearm as defined in subsection f. of N.J.S.2C:39-1 or any
33 other weapon enumerated in subsection r. of N.J.S.2C:39-1, a
34 requirement that the parolee refrain from the use, possession or
35 distribution of a controlled dangerous substance, controlled substance
36 analog or imitation controlled dangerous substance as defined in
37 N.J.S.2C:35-2 and N.J.S.2C:35-11, a requirement that the parolee
38 obtain permission from his parole officer for any change in his
39 residence, and a requirement that the parolee report at reasonable
40 intervals to an assigned parole officer. In addition, based on prior
41 history of the parolee or information provided by a victim or a member
42 of the family of a murder victim, the member or board panel certifying
43 parole release pursuant to section 11 of P.L.1979, c.441
44 (C.30:4-123.55) may impose any other specific conditions of parole
45 deemed reasonable in order to reduce the likelihood of recurrence of
46 criminal or delinquent behavior. Such special conditions may include,

1 among other things, a requirement that the parolee make full or partial
2 restitution, the amount of which restitution shall be set by the
3 sentencing court upon request of the board. In addition, the member
4 or board panel certifying parole release may, giving due regard to a
5 victim's request, impose a special condition that the parolee have no
6 contact with the victim, which special condition may include, but need
7 not be limited to, restraining the parolee from entering the victim's
8 residence, place of employment, business or school, and from
9 harassing or stalking the victim or victim's relatives in any way.

10 c. The appropriate board panel may in writing relieve a parolee of
11 any parole conditions, and may permit a parolee to reside outside the
12 State pursuant to the provisions of the Uniform Act for Out-of-State
13 Parolee Supervision (N.J.S.2A:168-14 et seq.), the Interstate Compact
14 on Juveniles, P.L.1955, c.55 (C.9:23-1 to 9:23-4), and, with the
15 consent of the Commissioner of the Department of Corrections or the
16 Executive Director of the Juvenile Justice Commission after providing
17 notice to the Attorney General, the federal Witness Security Reform
18 Act, if satisfied that such change will not result in a substantial
19 likelihood that the parolee will commit an offense which would be a
20 crime under the laws of this State. The appropriate board panel may
21 revoke such permission, except in the case of a parolee under the
22 Witness Security Reform Act, or reinstate relieved parole conditions
23 for any period of time during which a parolee is under its jurisdiction.

24 d. The appropriate board panel may parole an inmate to any
25 residential facility funded in whole or in part by the State if the inmate
26 would not otherwise be released pursuant to section 9 of P.L.1979,
27 c.441 (C.30:4-123.53) without such placement. But if the residential
28 facility provides treatment for mental illness or mental retardation, the
29 board panel only may parole the inmate to the facility pursuant to the
30 laws and admissions policies that otherwise govern the admission of
31 persons to that facility, and the facility shall have the authority to
32 discharge the inmate according to the laws and policies that otherwise
33 govern the discharge of persons from the facility, on 10 days' prior
34 notice to the board panel. The board panel shall acknowledge receipt
35 of this notice in writing prior to the discharge. Upon receipt of the
36 notice the board panel shall resume jurisdiction over the inmate.

37 e. **[The assigned parole officer]** Parole officers shall provide
38 assistance to the parolee in obtaining employment, education or
39 vocational training or in meeting other obligations to assure the
40 parolees compliance with meeting legal requirements related to sex
41 offender notification, address changes and participation in
42 rehabilitation programs as directed by the assigned parole officer.

43 f. The board panel on juvenile commitments and the assigned
44 parole officer shall insure that the least restrictive available alternative
45 is used for any juvenile parolee.

46 g. If the board has granted parole to any inmate from a State

1 correctional facility or juvenile facility and the court has imposed a fine
2 on such inmate, the appropriate board panel shall release such inmate
3 on condition that the parolee make specified fine payments to the
4 Bureau of Parole or the Juvenile Justice Commission. For violation of
5 such conditions, or for violation of a special condition requiring
6 restitution, parole may be revoked only for refusal or failure to make
7 a good faith effort to make such payment.

8 h. Upon collection of the fine the same shall be paid over by the
9 Department of Corrections or by the Juvenile Justice Commission to
10 the State Treasury.

11 (cf: P.L.1997, c.218)

12

13 10. Section 16 of P.L.1979, c.441 (C.30:4-123.60) is amended to
14 read as follows:

15 16. a. Any parolee who violates a condition of parole may be
16 subject to an order pursuant to section 17 of P.L.1979, c.441
17 (C.30:4-123.61) providing for one or more of the following: (1) That
18 he be required to conform to one or more additional conditions of
19 parole; (2) That he forfeit all or a part of commutation time credits
20 granted pursuant to R.S.30:4-140.

21 b. Any parolee who has seriously or persistently violated the
22 conditions of his parole, may have his parole revoked and may be
23 returned to custody pursuant to sections 18 and 19 of P.L.1979, c.441
24 (C.30:4-123.62 and 30:4-123.63). The board shall be notified
25 immediately upon the arrest or indictment of a parolee or upon the
26 filing of charges that the parolee committed an act which, if committed
27 by an adult, would constitute a crime. The board shall not revoke
28 parole on the basis of new charges which have not resulted in a
29 disposition at the trial level except that upon application by the
30 prosecuting authority, the Juvenile Justice Commission established
31 pursuant to section 2 of P.L.1995, c.284 (C.52:17B-170) or the Chief
32 of the **[Bureau]** State Parole Board's Division of Parole, the
33 chairman of the board or his designee may at any time detain the
34 parolee and commence revocation proceedings pursuant to sections 18
35 and 19 of P.L.1979, c.441 (C.30:4-123.62 and 30:4-123.63) when the
36 chairman determines that the new charges against the parolee are of a
37 serious nature and it appears that the parolee otherwise poses a danger
38 to the public safety. In such cases, a parolee shall be informed that, if
39 he testifies at the revocation proceedings, his testimony and the
40 evidence derived therefrom shall not be used against him in a
41 subsequent criminal prosecution or delinquency adjudication.

42 c. Any parolee who is convicted of a crime or adjudicated
43 delinquent for an act which, if committed by an adult, would constitute
44 a crime, committed while on parole shall have his parole revoked and
45 shall be returned to custody unless the parolee demonstrates, by clear
46 and convincing evidence at a hearing pursuant to section 19 of

1 P.L.1979, c.441 (C.30:4-123.63), that good cause exists why he
2 should not be returned to confinement.

3 (cf: P.L.1995, c.280, s.40)

4

5 11. Section 18 of P.L.1979, c.441 (C.30:4-123.62) is amended to
6 read as follows:

7 18. a. (1) If a parole officer assigned to supervise a parolee has
8 probable cause to believe that the parolee has violated a condition of
9 his parole, such violation being a basis for return to custody pursuant
10 to subsection b. of section 16 of P.L.1979, c.441 (C.30:4-123.60), a
11 designated representative of the chairman of the board may issue a
12 warrant for the arrest of the parolee if evidence indicates that the
13 parolee may not appear at the preliminary hearing or if the parolee
14 poses a danger to the public safety. With the parole warrant, a law
15 enforcement officer may apprehend the delinquent parolee.

16 (2) If a parole officer assigned to supervise a parolee has probable
17 cause to believe that the parolee has committed a crime, has
18 committed an act or is about to commit an act which, if committed by
19 an adult, would constitute a crime, is about to commit a crime or is
20 about to flee the jurisdiction, which violation is a basis for return to
21 custody pursuant to subsection b. of section 16 of P.L.1979, c.441
22 (C.30:4-123.60), and the situation is one of immediate emergency that
23 cannot await the issuance of a warrant by a designated representative,
24 the parole officer, by the parole officer's own warrant, may apprehend
25 the parolee and cause his detention in a suitable facility designated by
26 the Department of Corrections or the Juvenile Justice Commission
27 established pursuant to section 2 of P.L.1995, c.284 (C.52:17B-170),
28 as appropriate, or cause the parolee's confinement in an appropriate
29 institution pending return to a facility designated by the Department
30 of Corrections or the Juvenile Justice Commission, as appropriate, to
31 await the conduction of a preliminary hearing. The warrant shall be in
32 the form prescribed, as appropriate, by the Juvenile Justice
33 Commission or by the [Bureau of Parole and approved by the
34 Department of Corrections] State Parole Board and, when signed by
35 the officer in charge of the case, shall be a sufficient instrument and
36 authority to all peace officers to assist in the apprehension of the
37 parolee. It shall also be sufficient authority for detention of the
38 parolee in a suitable facility, to await the conduction of the preliminary
39 hearing. Upon enforcement of the warrant, the appropriate board panel
40 shall be promptly notified. No parolee held in custody on a parole
41 warrant shall be entitled to release on bail.

42 b. A parolee retaken under this section shall within 14 days be
43 granted a preliminary hearing to be conducted by a hearing officer not
44 previously involved in the case, unless the parolee or the hearing
45 officer requests postponement of the preliminary hearing, which may
46 be granted by the appropriate board panel for good cause, but in no

1 event shall such postponement, if requested by the hearing officer,
2 exceed 14 days.

3 c. The preliminary hearing shall be for the purpose of determining:

4 (1) Whether there is probable cause to believe that the parolee
5 violated a condition of his parole being the basis for return to custody
6 pursuant to subsection b. of section 16 of P.L.1979, 441
7 (C.30:4-123.60), and

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

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

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

13 (2) The time, date, place and circumstances of the alleged
14 violation;

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

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

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

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

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

24 f. If the evidence presented at the preliminary hearing does not
25 support a finding of probable cause to believe that the parolee has
26 violated a condition of his parole, such violation being a basis for
27 return to custody pursuant to subsection b. of section 16 of P.L.1979,
28 c.441 (C.30:4-123.60), or if it is otherwise determined that revocation
29 is not desirable, the hearing officer may, in accordance with the
30 provisions of subsection a. of section 16 of P.L.1979, c.441
31 (C.30:4-123.60) and section 17 of P.L.1979, c.441 (C.30:4-123.61),
32 issue an order modifying parole and releasing the offender, or
33 continuing parole and releasing the offender.

34 g. If the evidence presented at the preliminary hearing supports a
35 finding of probable cause to believe that the parolee has violated a
36 condition of his parole, the hearing officer shall determine whether the
37 parolee shall be retained in custody or released on specific conditions
38 pending action by the appropriate board panel.

39 h. Conviction of a crime committed while on parole or
40 adjudication of delinquency for an act which, if committed by an adult,
41 would constitute a crime shall be deemed to constitute probable cause
42 to believe that the parolee has violated a condition of parole.

43 (cf: P.L.1995, c.280, s.42)

44

45 ¹[12. (New section) Notwithstanding any other provision of law
46 to the contrary, a person may serve as both the Commissioner of

1 Corrections and the Chairman of the State Parole Board; except that
2 the person shall receive only the salary of the Commissioner of
3 Corrections.]¹

4
5 ¹[13.] 12.¹ Section 3 of P.L.1993, c.246 (C.43:16A-1.4) is
6 amended to read as follows:

7 3. If the Board of Trustees of the Police and Fireman's Retirement
8 System of New Jersey makes a determination, pursuant to section 9 of
9 P.L.1989, c.204 (C.43:16A-1.2), that the parole officers employed by
10 the [Bureau of Parole in the Department of Corrections] State Parole
11 Board are eligible for membership in the Police and Firemen's
12 Retirement System pursuant to section 1 of P.L.1944, c.255
13 (C.43:16A-1), the enrollment of those parole officers shall occur no
14 earlier that one year after the effective date of this section pursuant to
15 P.L.1993, c.246 (C.43:16A-1.4 et al.).
16 (cf: P.L.1993, c.246, s.3)

17
18 ¹[14.] 13.¹ Section 1 of P.L.1968, c.427 (C.2A:154-4) is amended
19 to read as follows:

20 1. All correction officers of the State of New Jersey, parole officers
21 employed by the [Bureau of Parole in the Department of Corrections]
22 State Parole Board and investigators in the Department of
23 Corrections, who have been or who may hereafter be appointed or
24 employed, shall, by virtue of such appointment or employment and in
25 addition to any other power or authority, be empowered to act as
26 officers for the detection, apprehension, arrest and conviction of
27 offenders against the law.
28 (cf: P.L.1993, c.246, s.1)

29
30 ¹[15.] 14.¹ N.J.S.2C:39-6 is amended to read as follows:

31 2C:39-6. a. Provided a person complies with the requirements of
32 subsection j. of this section, N.J.S.2C:39-5 does not apply to:

33 (1) Members of the Armed Forces of the United States or of the
34 National Guard while actually on duty, or while traveling between
35 places of duty and carrying authorized weapons in the manner
36 prescribed by the appropriate military authorities;

37 (2) Federal law enforcement officers, and any other federal officers
38 and employees required to carry firearms in the performance of their
39 official duties;

40 (3) Members of the State Police and, under conditions prescribed
41 by the superintendent, members of the Marine Law Enforcement
42 Bureau of the Division of State Police;

43 (4) A sheriff, undersheriff, sheriff's officer, county prosecutor,
44 assistant prosecutor, prosecutor's detective or investigator, deputy
45 attorney general or State investigator employed by the Division of
46 Criminal Justice of the Department of Law and Public Safety,

1 investigator employed by the State Commission of Investigation,
2 inspector of the Alcoholic Beverage Control Enforcement Bureau of
3 the Division of State Police in the Department of Law and Public
4 Safety authorized to carry such weapons by the Superintendent of
5 State Police, State park ranger, or State conservation officer;

6 (5) A prison or jail warden of any penal institution in this State or
7 his deputies, or an employee of the Department of Corrections
8 engaged in the interstate transportation of convicted offenders, while
9 in the performance of his duties, and when required to possess the
10 weapon by his superior officer, or a correction officer or keeper of a
11 penal institution in this State at all times while in the State of New
12 Jersey, provided he annually passes an examination approved by the
13 superintendent testing his proficiency in the handling of firearms;

14 (6) A civilian employee of the United States Government under the
15 supervision of the commanding officer of any post, camp, station, base
16 or other military or naval installation located in this State who is
17 required, in the performance of his official duties, to carry firearms,
18 and who is authorized to carry such firearms by said commanding
19 officer, while in the actual performance of his official duties;

20 (7) (a) A regularly employed member, including a detective, of the
21 police department of any county or municipality, or of any State,
22 interstate, municipal or county park police force or boulevard police
23 force, at all times while in the State of New Jersey;

24 (b) A special law enforcement officer authorized to carry a weapon
25 as provided in subsection b. of section 7 of P.L.1985, c.439
26 (C.40A:14-146.14);

27 (c) An airport security officer or a special law enforcement officer
28 appointed by the governing body of any county or municipality, except
29 as provided in subsection b. of this section, or by the commission,
30 board or other body having control of a county park or airport or
31 boulevard police force, while engaged in the actual performance of his
32 official duties and when specifically authorized by the governing body
33 to carry weapons;

34 (8) A full-time, paid member of a paid or part-paid fire department
35 or force of any municipality who is assigned full-time or part-time to
36 an arson investigation unit created pursuant to section 1 of P.L.1981,
37 c.409 (C.40A:14-7.1) or to the county arson investigation unit in the
38 county prosecutor's office, while either engaged in the actual
39 performance of arson investigation duties or while actually on call to
40 perform arson investigation duties and when specifically authorized by
41 the governing body or the county prosecutor, as the case may be, to
42 carry weapons. Prior to being permitted to carry a firearm, such a
43 member shall take and successfully complete a firearms training course
44 administered by the Police Training Commission pursuant to P.L.1961,
45 c.56 (C.52:17B-66 et seq.), and shall annually qualify in the use of a
46 revolver or similar weapon prior to being permitted to carry a firearm;

1 (9) A juvenile corrections officer in the employment of the Juvenile
2 Justice Commission established pursuant to section 2 of P.L.1995,
3 c.284 (C.52:17B-170) subject to the regulations promulgated by the
4 commission.

5 b. Subsections a., b. and c. of N.J.S.2C:39-5 do not apply to:

6 (1) A law enforcement officer employed by a governmental agency
7 outside of the State of New Jersey while actually engaged in his
8 official duties, provided, however, that he has first notified the
9 superintendent or the chief law enforcement officer of the municipality
10 or the prosecutor of the county in which he is engaged; or

11 (2) A licensed dealer in firearms and his registered employees
12 during the course of their normal business while traveling to and from
13 their place of business and other places for the purpose of
14 demonstration, exhibition or delivery in connection with a sale,
15 provided, however, that the weapon is carried in the manner specified
16 in subsection g. of this section.

17 c. Provided a person complies with the requirements of subsection
18 j. of this section, subsections b. and c. of N.J.S.2C:39-5 do not apply
19 to:

20 (1) A special agent of the Division of Taxation who has passed an
21 examination in an approved police training program testing proficiency
22 in the handling of any firearm which he may be required to carry, while
23 in the actual performance of his official duties and while going to or
24 from his place of duty, or any other police officer, while in the actual
25 performance of his official duties;

26 (2) A State deputy conservation officer or a full-time employee of
27 the Division of Parks and Forestry having the power of arrest and
28 authorized to carry weapons, while in the actual performance of his
29 official duties;

30 (3) (Deleted by amendment, P.L.1986, c.150.)

31 (4) A court attendant serving as such under appointment by the
32 sheriff of the county or by the judge of any municipal court or other
33 court of this State, while in the actual performance of his official
34 duties;

35 (5) A guard in the employ of any railway express company,
36 banking or building and loan or savings and loan institution of this
37 State, while in the actual performance of his official duties;

38 (6) A member of a legally recognized military organization while
39 actually under orders or while going to or from the prescribed place
40 of meeting and carrying the weapons prescribed for drill, exercise or
41 parade;

42 (7) An officer of the Society for the Prevention of Cruelty to
43 Animals, while in the actual performance of his duties;

44 (8) An employee of a public utilities corporation actually engaged
45 in the transportation of explosives;

46 (9) A railway policeman, except a transit police officer of the New

1 Jersey Transit Police Department, at all times while in the State of
2 New Jersey, provided that he has passed an approved police academy
3 training program consisting of at least 280 hours. The training
4 program shall include, but need not be limited to, the handling of
5 firearms, community relations, and juvenile relations;

6 (10) A campus police officer appointed under P.L.1970, c.211
7 (C.18A:6-4.2 et seq.) at all times. Prior to being permitted to carry a
8 firearm, a campus police officer shall take and successfully complete
9 a firearms training course administered by the Police Training
10 Commission, pursuant to P.L.1961, c.56 (C.52:17B-66 et seq.), and
11 shall annually qualify in the use of a revolver or similar weapon prior
12 to being permitted to carry a firearm;

13 (11) A person who has not been convicted of a crime under the
14 laws of this State or under the laws of another state or the United
15 States, and who is employed as a full-time security guard for a nuclear
16 power plant under the license of the Nuclear Regulatory Commission,
17 while in the actual performance of his official duties;

18 (12) A transit police officer of the New Jersey Transit Police
19 Department, at all times while in the State of New Jersey, provided the
20 officer has satisfied the training requirements of the Police Training
21 Commission, pursuant to subsection c. of section 2 of P.L.1989, c.291
22 (C.27:25-15.1);

23 (13) A parole officer employed by the [Bureau of Parole in the
24 Department of Corrections] State Parole Board at all times. Prior to
25 being permitted to carry a firearm, a parole officer shall take and
26 successfully complete a basic course for regular police officer training
27 administered by the Police Training Commission, pursuant to
28 P.L.1961, c.56 (C.52:17B-66 et seq.), and shall annually qualify in the
29 use of a revolver or similar weapon prior to being permitted to carry
30 a firearm;

31 (14) A Human Services police officer at all times while in the State
32 of New Jersey, as authorized by the Commissioner of Human Services;

33 (15) A person or employee of any person who, pursuant to and as
34 required by a contract with a governmental entity, supervises or
35 transports persons charged with or convicted of an offense; or

36 (16) A housing authority police officer appointed under P.L.1997,
37 c.210 (C.40A:14-146.19 et al.) at all times while in the State of New
38 Jersey.

39 d. (1) Subsections c. and d. of N.J.S.2C:39-5 do not apply to
40 antique firearms, provided that such antique firearms are unloaded or
41 are being fired for the purposes of exhibition or demonstration at an
42 authorized target range or in such other manner as has been approved
43 in writing by the chief law enforcement officer of the municipality in
44 which the exhibition or demonstration is held, or if not held on
45 property under the control of a particular municipality, the
46 superintendent.

1 (2) Subsection a. of N.J.S.2C:39-3 and subsection d. of
2 N.J.S.2C:39-5 do not apply to an antique cannon that is capable of
3 being fired but that is unloaded and immobile, provided that the
4 antique cannon is possessed by (a) a scholastic institution, a museum,
5 a municipality, a county or the State, or (b) a person who obtained a
6 firearms purchaser identification card as specified in N.J.S.2C:58-3.

7 (3) Subsection a. of N.J.S.2C:39-3 and subsection d. of
8 N.J.S.2C:39-5 do not apply to an unloaded antique cannon that is
9 being transported by one eligible to possess it, in compliance with
10 regulations the superintendent may promulgate, between its permanent
11 location and place of purchase or repair.

12 (4) Subsection a. of N.J.S.2C:39-3 and subsection d. of
13 N.J.S.2C:39-5 do not apply to antique cannons that are being loaded
14 or fired by one eligible to possess an antique cannon, for purposes of
15 exhibition or demonstration at an authorized target range or in the
16 manner as has been approved in writing by the chief law enforcement
17 officer of the municipality in which the exhibition or demonstration is
18 held, or if not held on property under the control of a particular
19 municipality, the superintendent, provided that performer has given at
20 least 30 days' notice to the superintendent.

21 (5) Subsection a. of N.J.S.2C:39-3 and subsection d. of
22 N.J.S.2C:39-5 do not apply to the transportation of unloaded antique
23 cannons directly to or from exhibitions or demonstrations authorized
24 under paragraph (4) of subsection d. of this section, provided that the
25 transportation is in compliance with safety regulations the
26 superintendent may promulgate. Nor do those subsections apply to
27 transportation directly to or from exhibitions or demonstrations
28 authorized under the law of another jurisdiction, provided that the
29 superintendent has been given 30 days' notice and that the
30 transportation is in compliance with safety regulations the
31 superintendent may promulgate.

32 e. Nothing in subsections b., c. and d. of N.J.S.2C:39-5 shall be
33 construed to prevent a person keeping or carrying about his place of
34 business, residence, premises or other land owned or possessed by
35 him, any firearm, or from carrying the same, in the manner specified
36 in subsection g. of this section, from any place of purchase to his
37 residence or place of business, between his dwelling and his place of
38 business, between one place of business or residence and another when
39 moving, or between his dwelling or place of business and place where
40 such firearms are repaired, for the purpose of repair. For the purposes
41 of this section, a place of business shall be deemed to be a fixed
42 location.

43 f. Nothing in subsections b., c. and d. of N.J.S.2C:39-5 shall be
44 construed to prevent:

45 (1) A member of any rifle or pistol club organized in accordance
46 with the rules prescribed by the National Board for the Promotion of

1 Rifle Practice, in going to or from a place of target practice, carrying
2 such firearms as are necessary for said target practice, provided that
3 the club has filed a copy of its charter with the superintendent and
4 annually submits a list of its members to the superintendent and
5 provided further that the firearms are carried in the manner specified
6 in subsection g. of this section;

7 (2) A person carrying a firearm or knife in the woods or fields or
8 upon the waters of this State for the purpose of hunting, target
9 practice or fishing, provided that the firearm or knife is legal and
10 appropriate for hunting or fishing purposes in this State and he has in
11 his possession a valid hunting license, or, with respect to fresh water
12 fishing, a valid fishing license;

13 (3) A person transporting any firearm or knife while traveling:

14 (a) Directly to or from any place for the purpose of hunting or
15 fishing, provided the person has in his possession a valid hunting or
16 fishing license; or

17 (b) Directly to or from any target range, or other authorized place
18 for the purpose of practice, match, target, trap or skeet shooting
19 exhibitions, provided in all cases that during the course of the travel
20 all firearms are carried in the manner specified in subsection g. of this
21 section and the person has complied with all the provisions and
22 requirements of Title 23 of the Revised Statutes and any amendments
23 thereto and all rules and regulations promulgated thereunder; or

24 (c) In the case of a firearm, directly to or from any exhibition or
25 display of firearms which is sponsored by any law enforcement agency,
26 any rifle or pistol club, or any firearms collectors club, for the purpose
27 of displaying the firearms to the public or to the members of the
28 organization or club, provided, however, that not less than 30 days
29 prior to the exhibition or display, notice of the exhibition or display
30 shall be given to the Superintendent of the State Police by the
31 sponsoring organization or club, and the sponsor has complied with
32 such reasonable safety regulations as the superintendent may
33 promulgate. Any firearms transported pursuant to this section shall be
34 transported in the manner specified in subsection g. of this section;

35 (4) A person from keeping or carrying about a private or
36 commercial aircraft or any boat, or from transporting to or from such
37 vessel for the purpose of installation or repair a visual distress
38 signalling device approved by the United States Coast Guard.

39 g. All weapons being transported under paragraph (2) of
40 subsection b., subsection e., or paragraph (1) or (3) of subsection f. of
41 this section shall be carried unloaded and contained in a closed and
42 fastened case, gunbox, securely tied package, or locked in the trunk of
43 the automobile in which it is being transported, and in the course of
44 travel shall include only such deviations as are reasonably necessary
45 under the circumstances.

46 h. Nothing in subsection d. of N.J.S.2C:39-5 shall be construed

1 to prevent any employee of a public utility, as defined in R.S.48:2-13,
2 doing business in this State or any United States Postal Service
3 employee, while in the actual performance of duties which specifically
4 require regular and frequent visits to private premises, from
5 possessing, carrying or using any device which projects, releases or
6 emits any substance specified as being noninjurious to canines or other
7 animals by the Commissioner of Health and Senior Services and which
8 immobilizes only on a temporary basis and produces only temporary
9 physical discomfort through being vaporized or otherwise dispensed
10 in the air for the sole purpose of repelling canine or other animal
11 attacks.

12 The device shall be used solely to repel only those canine or other
13 animal attacks when the canines or other animals are not restrained in
14 a fashion sufficient to allow the employee to properly perform his
15 duties.

16 Any device used pursuant to this act shall be selected from a list of
17 products, which consist of active and inert ingredients, permitted by
18 the Commissioner of Health and Senior Services.

19 i. Nothing in N.J.S.2C:39-5 shall be construed to prevent any
20 person who is 18 years of age or older and who has not been convicted
21 of a felony, from possession for the purpose of personal self-defense
22 of one pocket-sized device which contains and releases not more than
23 three-quarters of an ounce of chemical substance not ordinarily
24 capable of lethal use or of inflicting serious bodily injury, but rather,
25 is intended to produce temporary physical discomfort or disability
26 through being vaporized or otherwise dispensed in the air. Any person
27 in possession of any device in violation of this subsection shall be
28 deemed and adjudged to be a disorderly person, and upon conviction
29 thereof, shall be punished by a fine of not less than \$100.00.

30 j. A person shall qualify for an exemption from the provisions of
31 N.J.S.2C:39-5, as specified under subsections a. and c. of this section,
32 if the person has satisfactorily completed a firearms training course
33 approved by the Police Training Commission.

34 Such exempt person shall not possess or carry a firearm until the
35 person has satisfactorily completed a firearms training course and shall
36 annually qualify in the use of a revolver or similar weapon. For
37 purposes of this subsection, a "firearms training course" means a
38 course of instruction in the safe use, maintenance and storage of
39 firearms which is approved by the Police Training Commission. The
40 commission shall approve a firearms training course if the
41 requirements of the course are substantially equivalent to the
42 requirements for firearms training provided by police training courses
43 which are certified under section 6 of P.L.1961, c.56 (C.52:17B-71).
44 A person who is specified in paragraph (1), (2), (3) or (6) of
45 subsection a. of this section shall be exempt from the requirements of
46 this subsection.

1 k. Nothing in subsection d. of N.J.S.2C:39-5 shall be construed
2 to prevent any financial institution, or any duly authorized personnel
3 of the institution, from possessing, carrying or using for the protection
4 of money or property, any device which projects, releases or emits tear
5 gas or other substances intended to produce temporary physical
6 discomfort or temporary identification.

7 l. Nothing in subsection b. of N.J.S.2C:39-5 shall be construed
8 to prevent a law enforcement officer who retired in good standing,
9 including a retirement because of a disability pursuant to section 6 of
10 P.L.1944, c.255 (C.43:16A-6), section 7 of P.L.1944, c.255
11 (C.43:16A-7), section 1 of P.L.1989, c.103 (C.43:16A-6.1) or any
12 substantially similar statute governing the disability retirement of
13 federal law enforcement officers, provided the officer was a regularly
14 employed, full-time law enforcement officer for an aggregate of five
15 or more years prior to his disability retirement and further provided
16 that the disability which constituted the basis for the officer's
17 retirement did not involve a certification that the officer was mentally
18 incapacitated for the performance of his usual law enforcement duties
19 and any other available duty in the department which his employer was
20 willing to assign to him or does not subject that retired officer to any
21 of the disabilities set forth in subsection c. of N.J.S.2C:58-3 which
22 would disqualify the retired officer from possessing or carrying a
23 firearm, who semi-annually qualifies in the use of the handgun he is
24 permitted to carry in accordance with the requirements and procedures
25 established by the Attorney General pursuant to subsection j. of this
26 section and pays the actual costs associated with those semi-annual
27 qualifications, who is less than 70 years of age, and who was regularly
28 employed as a full-time member of the State Police; a full-time
29 member of an interstate police force; a full-time member of a county
30 or municipal police department in this State; a full-time member of a
31 State law enforcement agency; a full-time sheriff, undersheriff or
32 sheriff's officer of a county of this State; a full-time State or county
33 corrections officer; a full-time county park police officer; a full-time
34 county prosecutor's detective or investigator; or a full-time federal law
35 enforcement officer from carrying a handgun in the same manner as
36 law enforcement officers exempted under paragraph (7) of subsection
37 a. of this section under the conditions provided herein:

38 (1) The retired law enforcement officer, within six months after
39 retirement, shall make application in writing to the Superintendent of
40 State Police for approval to carry a handgun for one year. An
41 application for annual renewal shall be submitted in the same manner.

42 (2) Upon receipt of the written application of the retired law
43 enforcement officer, the superintendent shall request a verification of
44 service from the chief law enforcement officer of the organization in
45 which the retired officer was last regularly employed as a full-time law
46 enforcement officer prior to retiring. The verification of service shall

1 include:

2 (a) The name and address of the retired officer;

3 (b) The date that the retired officer was hired and the date that the
4 officer retired;

5 (c) A list of all handguns known to be registered to that officer;

6 (d) A statement that, to the reasonable knowledge of the chief law
7 enforcement officer, the retired officer is not subject to any of the
8 restrictions set forth in subsection c. of N.J.S.2C:58-3; and

9 (e) A statement that the officer retired in good standing.

10 (3) If the superintendent approves a retired officer's application or
11 reapplication to carry a handgun pursuant to the provisions of this
12 subsection, the superintendent shall notify in writing the chief law
13 enforcement officer of the municipality wherein that retired officer
14 resides. In the event the retired officer resides in a municipality which
15 has no chief law enforcement officer or law enforcement agency, the
16 superintendent shall maintain a record of the approval.

17 (4) The superintendent shall issue to an approved retired officer an
18 identification card permitting the retired officer to carry a handgun
19 pursuant to this subsection. This identification card shall be valid for
20 one year from the date of issuance and shall be valid throughout the
21 State. The identification card shall not be transferable to any other
22 person. The identification card shall be carried at all times on the
23 person of the retired officer while the retired officer is carrying a
24 handgun. The retired officer shall produce the identification card for
25 review on the demand of any law enforcement officer or authority.

26 (5) Any person aggrieved by the denial of the superintendent of
27 approval for a permit to carry a handgun pursuant to this subsection
28 may request a hearing in the Superior Court of New Jersey in the
29 county in which he resides by filing a written request for such a
30 hearing within 30 days of the denial. Copies of the request shall be
31 served upon the superintendent and the county prosecutor. The
32 hearing shall be held within 30 days of the filing of the request, and no
33 formal pleading or filing fee shall be required. Appeals from the
34 determination of such a hearing shall be in accordance with law and
35 the rules governing the courts of this State.

36 (6) A judge of the Superior Court may revoke a retired officer's
37 privilege to carry a handgun pursuant to this subsection for good cause
38 shown on the application of any interested person. A person who
39 becomes subject to any of the disabilities set forth in subsection c. of
40 N.J.S.2C:58-3 shall surrender, as prescribed by the superintendent, his
41 identification card issued under paragraph (4) of this subsection to the
42 chief law enforcement officer of the municipality wherein he resides or
43 the superintendent, and shall be permanently disqualified to carry a
44 handgun under this subsection.

45 (7) The superintendent may charge a reasonable application fee to
46 retired officers to offset any costs associated with administering the

1 application process set forth in this subsection.

2 m. Nothing in subsection d. of N.J.S.2C:39-5 shall be construed
3 to prevent duly authorized personnel of the New Jersey Division of
4 Fish, Game and Wildlife, while in the actual performance of duties,
5 from possessing, transporting or using any device that projects,
6 releases or emits any substance specified as being non-injurious to
7 wildlife by the Director of the Division of Animal Health in the
8 Department of Agriculture, and which may immobilize wildlife and
9 produces only temporary physical discomfort through being vaporized
10 or otherwise dispensed in the air for the purpose of repelling bear or
11 other animal attacks or for the aversive conditioning of wildlife.

12 n. Nothing in subsection b., c., d. or e. of N.J.S.2C:39-5 shall be
13 construed to prevent duly authorized personnel of the New Jersey
14 Division of Fish, Game and Wildlife, while in the actual performance
15 of duties, from possessing, transporting or using hand held pistol-like
16 devices, rifles or shotguns that launch pyrotechnic missiles for the sole
17 purpose of frightening, hazing or aversive conditioning of nuisance or
18 depredating wildlife; from possessing, transporting or using rifles,
19 pistols or similar devices for the sole purpose of chemically
20 immobilizing wild or non-domestic animals; or, provided the duly
21 authorized person complies with the requirements of subsection j. of
22 this section, from possessing, transporting or using rifles or shotguns,
23 upon completion of a Police Training Commission approved training
24 course, in order to dispatch injured or dangerous animals or for
25 non-lethal use for the purpose of frightening, hazing or aversive
26 conditioning of nuisance or depredating wildlife.

27 (cf: P.L.1997, c.393, s.1)

28

29 ¹[16.] 15.¹ Section 2 of P.L.1997, c.117 (C.2C:43-7.2) is
30 amended to read as follows:

31 2. a. A court imposing a sentence of incarceration for a crime of
32 the first or second degree shall fix a minimum term of 85% of the
33 sentence during which the defendant shall not be eligible for parole if
34 the crime is a violent crime as defined in subsection d. of this section.

35 b. The provisions of subsection a. of this section shall not be
36 construed or applied to reduce the time that must be served before
37 eligibility for parole by an inmate sentenced to a mandatory minimum
38 period of incarceration.

39 c. Notwithstanding any other provision of law to the contrary and
40 in addition to any other sentence imposed, a court imposing a
41 minimum period of parole ineligibility of 85 percent of the sentence
42 pursuant to this section shall also¹[, unless the court imposes a
43 sentence of lifetime parole supervision pursuant to P.L. , c.
44 (C.)(now pending before the Legislature as Senate Bill No. 524
45 SCS),]¹ impose a five-year term of parole supervision if the defendant
46 is being sentenced for a crime of the first degree, or a three-year term

1 of parole supervision if the defendant is being sentenced for a crime of
2 the second degree. The term of parole supervision shall commence
3 upon the completion of the sentence of incarceration imposed by the
4 court pursuant to subsection a. of this section unless the defendant is
5 serving a sentence of incarceration for another crime at the time he
6 completes the sentence of incarceration imposed pursuant to
7 subsection a., in which case the term of parole supervision shall
8 commence immediately upon the defendant's release from
9 incarceration. During the term of parole supervision the defendant
10 shall remain in release status in the community in the legal custody of
11 the Commissioner of the Department of Corrections and shall be
12 supervised by the [Bureau of Parole of the Department of
13 Corrections] State Parole Board as if on parole and shall be subject to
14 the provisions and conditions of section 3 of P.L.1997, c.117
15 (C.30:4-123.51b).

16 d. For the purposes of this section, "violent crime" means any
17 crime in which the actor causes death, causes serious bodily injury as
18 defined in subsection b. of N.J.S.2C:11-1, or uses or threatens the
19 immediate use of a deadly weapon. "Violent crime" also includes any
20 aggravated sexual assault or sexual assault in which the actor uses, or
21 threatens the immediate use of, physical force.

22 For the purposes of this section, "deadly weapon" means any
23 firearm or other weapon, device, instrument, material or substance,
24 whether animate or inanimate, which in the manner it is used or is
25 intended to be used, is known to be capable of producing death or
26 serious bodily injury.

27 e. A court shall not impose sentence pursuant to this section unless
28 the ground therefor has been established at a hearing after the
29 conviction of the defendant and on written notice to him of the ground
30 proposed. The defendant shall have the right to hear and controvert
31 the evidence against him and to offer evidence upon the issue.

32 (cf: P.L.1997, c.117, s.1)

33

34 ¹[17.] 16.¹ This act shall take effect immediately.

STATEMENT TO
[First Reprint]
ASSEMBLY, No. 3214

with Assembly Floor Amendments
(Proposed By Assemblyman HOLZAPFEL)

ADOPTED: MARCH 26, 2001

Assembly Bill No. 3214 (1R) provides for the reconstitution of the Bureau of Parole, presently allocated within the Department of Corrections, as the Division of Parole within the State Parole Board.

These Assembly amendments (1) provide for the allocation, between the State Parole Board and the Department of Corrections, of responsibility for notification to prosecutors of inmate release, (2) extend the right to request postponement of a hearing on a parolee's violation of parole, currently limited to the parolee and the hearing officer, to the parole officer, (3) allow the objective risk assessment, conducted with respect to any adult inmate eligible for release on parole, to be performed by State agents not employed by the State Parole Board, and (4) make various technical revisions.

These Assembly amendments make this bill identical to Senate Bill No. 2026 (2R).

[Second Reprint]

ASSEMBLY, No. 3214

STATE OF NEW JERSEY
209th LEGISLATURE

INTRODUCED FEBRUARY 15, 2001

Sponsored by:

Assemblyman JAMES W. HOLZAPFEL

District 10 (Monmouth and Ocean)

Assemblyman KEVIN J. O'TOOLE

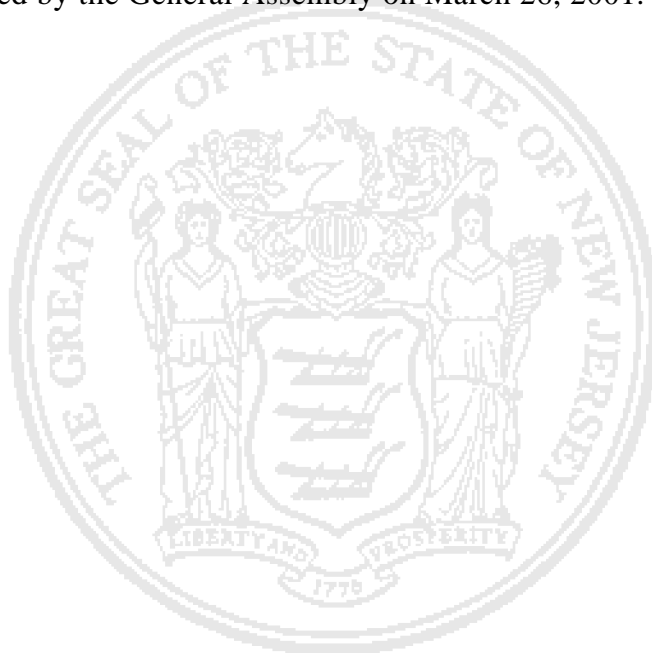
District 21 (Essex and Union)

SYNOPSIS

Transfers the Bureau of Parole in the Department of Corrections to the State Parole Board.

CURRENT VERSION OF TEXT

As amended by the General Assembly on March 26, 2001.



(Sponsorship Updated As Of: 3/27/2001)

1 AN ACT concerning parole and revising various parts of the statutory
2 law.

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

6
7 1. (New section). a. ²[All] The Bureau of Parole in the
8 Department of Corrections is hereby constituted as the Division of
9 Parole in the State Parole Board, and all² functions, powers and duties
10 of the existing Bureau of Parole ²[in the Department of Corrections]²
11 are hereby transferred to the State Parole Board.

12 b. All files, books, papers, records, equipment and other property
13 of the Bureau of Parole in the Department of Corrections shall be
14 transferred to the State Parole Board.

15 c. All appropriations and other moneys available and to become
16 available to the Bureau of Parole in the Department of Corrections,
17 the functions, powers and duties of which have been assigned or
18 transferred herein, ²or to the Department of Corrections on behalf of
19 the Bureau of Parole, including such funds as are appropriated for the
20 administration of the Bureau of Parole,² are hereby transferred to the
21 State Parole Board and shall be available for the objects and purposes
22 for which appropriated, subject to any terms, restrictions, limitations
23 or other requirements imposed by State or Federal law.

24 d. The employees of the Bureau of Parole in the Department of
25 Corrections are hereby transferred to the State Parole Board.

26 e. Nothing in P.L. c, (C.)(now pending before the
27 Legislature as this bill) shall be construed to deprive any person of any
28 tenure rights or of any right or protection provided him by Title ²[11]
29 11A² of the ²[Revised] New Jersey² Statutes, Civil Service, or under
30 any pension law or retirement system.

31 f. P.L. c, (C.)(now pending before the Legislature as this bill)
32 shall not affect actions or proceedings, civil or criminal, brought by
33 or against the Bureau of Parole in the Department of Corrections, the
34 functions, powers and duties of which have been herein assigned or
35 transferred to the State Parole Board.

36
37 2. Section 1 of P.L.1979, c.441 (C.30:4-123.45) is amended to
38 read as follows:

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

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

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 Assembly ALP committee amendments adopted March 1, 2001.

² Assembly floor amendments adopted March 26, 2001.

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

3 (2) "Juvenile inmate" means any person under commitment as a
4 juvenile delinquent pursuant to section 25 of P.L.1982, c.77
5 (C.2A:4A-44).

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

9 (4) "Primary parole eligibility date" means that date established for
10 parole eligibility for adult inmates pursuant to section 7 or 20 of this
11 act.

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

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

25 (7) "Commission" means the Juvenile Justice Commission
26 established pursuant to section 2 of P.L.1995, c.284 (C.52:17B-170).

27 (8) "Parole officer" means, with respect to an adult inmate, an
28 officer assigned by the [Bureau of Parole] Chairman of the State
29 Parole Board or his designee and, with respect to a juvenile inmate,
30 a person assigned by the commission.

31 (cf: P.L.1995, c.280, s.34).

32

33 3. Section 1 of P.L.1997, c.215 (C.30:4-123.47a) is amended to
34 read as follows:

35 1. There is hereby established a Parole Advisory Board in, but not
36 of, the [Bureau of Parole] State Parole Board. Notwithstanding the
37 allocation of the board within the [bureau] State Parole Board, the
38 [bureau] State Parole Board or any employee thereof shall not exercise
39 any control over the [board] Parole Advisory Board. The advisory
40 board shall consist of 23 members. It shall include in its membership
41 the [Chief of the Bureau of Parole in the Department of Corrections]
42 Chairman of the State Parole Board or his designee, who shall serve
43 ex officio; one member representing each of the following
44 organizations and groups, who shall be appointed by the Governor:
45 [the State Parole Board,] the Department of Corrections, the
46 Department of Health and Senior Services, the Department of Law and

1 Public Safety, Office of the Governor, the Administrative Office of the
2 Courts, the Victims of Crime Compensation Board, the New Jersey
3 Chapter of the American Correctional Association, the County
4 Prosecutors Association of New Jersey, the Sheriffs' Association of
5 New Jersey, the New Jersey Wardens Association, the New Jersey
6 State Association of Chiefs of Police, the American Parole and
7 Probation Association, Governor's Council on Alcoholism and Drug
8 Abuse, the community at large, treatment providers, victims' rights
9 groups and former inmates who have successfully completed parole.
10 Two members of the Senate, who shall not be of the same political
11 party and who shall serve during their terms of office, shall be
12 appointed by the President of the Senate. Two members of the
13 General Assembly, who shall not be of the same political party and
14 who shall serve during their terms of office, shall be appointed by the
15 Speaker of the General Assembly.

16 Members of the advisory board shall be appointed with the advice
17 and consent of the Senate, and serve a term of three years, except for
18 the initial gubernatorial appointees, six of whom shall serve for two
19 years and six of whom shall serve for four years. Each member shall
20 serve for the term of appointment and until a successor is appointed.
21 A member may be reappointed to the advisory board. A member
22 appointed to fill a vacancy occurring in the membership of the advisory
23 board for any reason other than the expiration of the term shall serve
24 a term of appointment for the unexpired term only. All vacancies shall
25 be filled in the same manner as the original appointments. Any
26 appointed member of the advisory board, except the legislative
27 members, may be removed from the advisory board by the Governor,
28 for cause, after a hearing, and may be suspended by the Governor
29 pending the completion of the hearing. Legislative members may be
30 removed for cause by the leader of their respective houses. Motions
31 and resolutions may be adopted by the advisory board at a board
32 meeting by an affirmative vote of not less than 12 members.

33 Members of the advisory board shall serve without compensation
34 but shall be entitled to reimbursement for actual expenses of serving
35 on the board, to the extent that funds are available for this purpose.

36 The advisory board shall organize as soon as possible after the
37 appointment of its members. The members shall select a chair from
38 among their number.

39 (cf: P.L.1997, c.215, s.1).

40

41 4. Section 2 of P.L.1997, c.215 (C.30:4-123.47b.) is amended to
42 read as follows:

43 2. It shall be the duty of the advisory board to review and comment
44 on supervision issues, the development and implementation of drug
45 and alcohol treatment programs for parolees, and any other issues as
46 requested by the [Commissioner of Corrections] State Parole Board,

1 taking into consideration all relevant research [conducted by the
2 Bureau of Parole]. The advisory board shall sponsor conferences
3 with criminal justice administrators and community members, including
4 treatment providers, in order to educate all interested parties in the
5 importance of relapse prevention and treatment for specialized cases,
6 and to address issues such as lowering costs, developing protocols for
7 confidentiality, identifying the type and amount of treatment that
8 should be available, and promoting community involvement in the
9 reintegration process. The advisory board may make
10 recommendations to the Commissioner of Corrections, the Chairman
11 of the State Parole Board, the Legislature and the Governor in these
12 matters.

13 The advisory board shall meet at least semiannually and may hold
14 hearings at any place or places it shall designate during the sessions or
15 recesses of the Legislature. The [Bureau of Parole] State Parole
16 Board shall have primary responsibility for providing staff services and
17 other necessary support to the board. The advisory board may also
18 request the assistance and services of the employees of any State,
19 county or municipal department, board, bureau, commission, task
20 force or agency as it may require and as may be available to it for its
21 purposes. The advisory board may, within the limits of funds
22 appropriated or otherwise made available to it for its purposes, employ
23 stenographic and clerical assistants and incur travel and miscellaneous
24 expenses necessary for the performance of its duties.

25 (cf: P.L.1997, c.215, s.2).

26

27 5. Section 4 of P.L.1979, c.441 (C.30:4-123.48) is amended to
28 read as follows:

29 4. a. All policies and determinations of the Parole Board shall be
30 made by the majority vote of the members.

31 b. Except where otherwise noted, parole determinations on
32 individual cases pursuant to this act shall be made by the majority vote
33 of a quorum of the appropriate board panel established pursuant to this
34 section.

35 c. The chairman of the board shall be the chief executive officer of
36 the board and, after consulting with the board, shall be responsible for
37 designating the time and place of all board meetings, for appointing the
38 board's employees, for organizing, controlling and directing the work
39 of the board and its employees, and for preparation and justification of
40 the board's budget. The nonsecretarial professional and supervisory
41 employees of the board such as, but not limited to, hearing officers,
42 shall serve at the pleasure of the chairman and shall not be subject to
43 the provisions of Title ¹[11] 11A¹ of the ²[Revised] New Jersey²
44 Statutes.[Nothing contained herein shall be deemed to affect the
45 employees of the Department of Corrections, such as parole officers
46 assigned to supervise parolees] Parole officers assigned to supervise

1 2adult² parolees and all supervisory titles associated with the
2 supervision of 2adult² parolees in the parole officer series shall be
3 classified employees subject to the provisions of Title ¹[11] 11A¹ of
4 the ²[Revised] New Jersey ²Statutes. Parole officers assigned to
5 supervise 2adult² parolees and all supervisory titles associated with the
6 supervision of 2adult² parolees in the parole officer job classification
7 series shall be organizationally assigned to the State Parole Board with
8 a ¹[designee promoted through the ranks of the parole officer job
9 classification series to act as director of parole supervision] sworn
10 member of the Division of Parole appointed to act as director of parole
11 supervision¹. The director of parole supervision shall report directly
12 to the Chairman of the State Parole Board ²or to such person as the
13 chairman may designate².

14 d. The board shall promulgate such reasonable rules and
15 regulations, consistent with this act, as may be necessary for the
16 proper discharge of its responsibilities. The chairman shall file such
17 rules and regulations with the Secretary of State. The provisions of
18 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
19 seq.) shall apply to the promulgation of rules and regulations
20 concerning policy and administration, but not to other actions taken
21 under this act, such as parole hearings, parole revocation hearings and
22 review of parole cases. In determination of its rules and regulations
23 concerning policy and administration, the board shall consult the
24 Governor, the Commissioner of Corrections and the Juvenile Justice
25 Commission established pursuant to section 2 of P.L.1995, c.284
26 (C.52:17B-170).

27 e. The board, in conjunction with the Department of Corrections
28 and the Juvenile Justice Commission, shall develop a uniform
29 information system in order to closely monitor the parole process.
30 Such system shall include participation in the Uniform Parole Reports
31 of the National Council on Crime and Delinquency.

32 f. The board shall transmit a report of its work for the preceding
33 fiscal year, including information on the causes and extent of parole
34 recidivism, to the Governor, the Legislature and the Juvenile Justice
35 Commission annually.

36 g. The board shall give public notice prior to considering any adult
37 inmate for release.

38 h. The board shall give notice to the appropriate prosecutor's office
39 and to the committing court prior to the initial consideration of any
40 juvenile inmate for release.

41 (cf: P.L.1995, c.280, s.35)

42

43 6. Section 3 of P.L.1997, c.117 (C.30:4-123.51b.) is amended to
44 read as follows:

45 3. a. A person who has been sentenced to a term of parole
46 supervision and is on release status in the community pursuant to

1 section 2 of P.L.1997, c.117 (C.2C:43-7.2) shall, during the term of
2 parole supervision, remain on release status in the community, in the
3 legal custody of the Commissioner of the Department of Corrections,
4 and shall be supervised by the [Bureau of Parole of the Department
5 of Corrections] parole officers in the State Parole Board as if on
6 parole, and shall be subject to the provisions and conditions set by the
7 appropriate board panel. The appropriate board panel shall have the
8 authority, in accordance with the procedures and standards set forth
9 in sections 15 through 21 of P.L.1979, c.441 (C.30:4-123.59 through
10 30:4-123.65), to revoke the person's release status and return the
11 person to custody for the remainder of the term or until it is
12 determined, in accordance with regulations adopted by the board, that
13 the person is again eligible for release consideration pursuant to
14 section 9 of P.L.1979, c.441 (C.30:4-123.53).

15 b. The Parole Board shall promulgate rules and regulations
16 necessary to carry out the purposes of this act pursuant to the
17 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
18 seq.).
19 (cf: P.L.1997, c.117, s.3)

20

21 7. Section 1 of P.L.1997, c.214 (C.30:4-123.51c) is amended to
22 read as follows:

23 1. a. (1) For the purpose of this section, "terminal condition,
24 disease or syndrome" means a prognosis by the licensed physicians
25 designated by the Commissioner of Corrections pursuant to subsection
26 b. of this section that an inmate has six months or less to live.

27 (2) Except as otherwise provided in paragraph (3) of this
28 subsection, the appropriate board panel may release on medical parole
29 any inmate serving any sentence of imprisonment who has been
30 diagnosed pursuant to subsection b. of this section as suffering from
31 a terminal condition, disease or syndrome and is found by the
32 appropriate board panel to be so debilitated or incapacitated by the
33 terminal condition, disease or syndrome as to be permanently
34 physically incapable of committing a crime if released on parole.
35 Notwithstanding any provision of P.L.1979, c.441 (C.30:4-123.45 et
36 seq.) to the contrary, the appropriate board panel may release any such
37 inmate at any time during the term of the sentence. An inmate placed
38 on parole pursuant to this section shall be subject to custody,
39 supervision and conditions as provided in section 15 of P.L.1979,
40 c.441 [(C.30:3-123.59)] (C.30:4-123.59) and shall be subject to
41 sanctions for a violation of a condition of parole as provided in
42 sections 16 through 21 of P.L.1979, c.441 (C.30:4-123.60 through
43 30:4-123.65).

44 (3) No inmate serving any sentence for a violation of
45 N.J.S.2C:11-3; N.J.S.2C:11-4; N.J.S.2C:13-1; subsection a. of
46 N.J.S.2C:14-2; N.J.S.2C:15-1 in which the inmate, while in the course

1 of committing the theft, attempted to kill another, or purposely
2 inflicted or attempted to inflict serious bodily injury, or was armed
3 with or used or threatened the immediate use of a deadly weapon;
4 subsection a. of N.J.S.2C:17-1; or N.J.S.2C:24-4 or an attempt to
5 commit any of these offenses shall be eligible for the medical parole
6 authorized under paragraph (2) of this section.

7 b. A medical diagnosis that an inmate is suffering from a terminal
8 condition, disease or syndrome shall be made by two licensed
9 physicians designated by the Commissioner of Corrections. The
10 diagnosis shall include, but not be limited to:

11 (1) a description of the terminal condition, disease or syndrome;

12 (2) a prognosis concerning the likelihood of recovery from the
13 terminal condition, disease or syndrome;

14 (3) a description of the inmate's physical incapacity; and

15 (4) a description of the type of ongoing treatment that would be
16 required if the inmate were released on medical parole.

17 c. A request for a medical diagnosis to determine whether an
18 inmate is eligible for a medical parole under this section may be
19 submitted to the appropriate board panel by the Commissioner of
20 Corrections, the administrator or superintendent of a correctional
21 facility; the inmate; a member of the inmate's family or the inmate's
22 attorney. The request shall be submitted in a manner and form
23 prescribed by the board.

24 d. At least five working days prior to commencing its review of a
25 request for a medical parole, the appropriate board panel shall notify
26 the appropriate sentencing court; county prosecutor or, if the matter
27 was prosecuted by the Attorney General, the Attorney General; and
28 any victim or member of the family of a victim entitled to notice
29 relating to a parole or the consideration of a parole under the
30 provisions of P.L.1979, c.441 (C.30:4-123.45 et seq.). The notice
31 shall be given in the manner prescribed by the board and shall contain
32 all such information and documentation relating to the medical
33 diagnosis prepared pursuant to subsection b. of this section as the
34 board shall deem appropriate and necessary.

35 Upon receipt of the notice, the sentencing court; county prosecutor
36 or Attorney General, as the case may be; the victim or member of the
37 family of the victim, as the case may be, shall have 10 working days
38 to review the notice and submit comments to the appropriate board
39 panel. If a recipient of the notice does not submit comments within
40 that 10-day period following the receipt of the notice, the panel may
41 presume that the recipient does not wish to submit comments and
42 proceed with its consideration of the request for medical parole. Any
43 comments provided by a recipient shall be delivered to the appropriate
44 board panel in the same manner or by the same method as notice was
45 given by the panel to that recipient.

46 The information contained in any notice given by a panel pursuant

1 to this subsection and the contents of any comments submitted by a
2 recipient in response thereto shall be confidential and shall not be
3 disclosed to any person who is not authorized to receive or review that
4 information or those comments.

5 Notice given under the provisions of this subsection shall be in lieu
6 of any other notice of parole consideration required under P.L.1979,
7 c.441 (C.30:4-123.45 et seq.).

8 Nothing in this subsection shall be construed to impair any party's
9 right to be heard pursuant to P.L.1979, c.441 (C.30:4-123.45 et seq.).

10 e. The appropriate board panel shall conduct its review of a request
11 for medical parole as expeditiously as possible.

12 The appropriate board panel shall provide written notice of its
13 decision to the sentencing court; the county prosecutor or Attorney
14 General, as the case may be; and any victim or member of a victim's
15 family given notice pursuant to subsection d. of this section.

16 f. Whenever an inmate is granted medical parole pursuant to this
17 section, the appropriate board shall require, as a condition precedent
18 to release, that the inmate's release plan include:

19 (1) identification of a community sponsor;

20 (2) verification of the availability of appropriate medical services
21 sufficient to meet the treatment requirements identified pursuant to
22 paragraph (4) of subsection b. of this section; and

23 (3) verification of appropriate housing which may include, but need
24 not be limited to, a hospital, hospice, nursing home facility or other
25 housing accommodation suitable to the inmate's medical condition,
26 disease or syndrome.

27 g. In addition to any conditions imposed pursuant to section 15 of
28 P.L.1979, c.441 (C.30:4-123.59), as a condition of release on medical
29 parole, the appropriate board panel may require an inmate to submit
30 to periodic medical diagnoses by a licensed physician.

31 h. If, after review of a medical diagnosis required under the
32 provisions of subsection g. of this section, the appropriate board panel
33 determines that a parolee released on medical parole is no longer so
34 debilitated or incapacitated by a terminal condition, disease or
35 syndrome as to be physically incapable of committing a crime, the
36 parolee shall be returned to confinement in an appropriate facility
37 designated by the Commissioner of Corrections.

38 A decision to return the parolee to confinement pursuant to this
39 subsection shall be rendered only after a hearing by the appropriate
40 board panel or by a hearing officer designated by the chairman of the
41 board. Nothing in this subsection shall be construed to limit the
42 authority of the board, an appropriate board panel or [any] parole
43 officer of the State Parole Board to address a violation of a condition
44 of parole pursuant to sections 16 through 21 of P.L.1979, c.441
45 (C.30:4-123.60 through 30:4-123.65).

46 i. The denial of a request for medical parole or the return of a

1 parolee to confinement under the provisions of subsection h. of this
2 section shall not preclude that inmate from being considered for parole
3 pursuant to subsection a. of section 7 of P.L.1979, c.441
4 (C.30:4-123.51).

5 (cf: P.L.1997, c.214, s.1)

6

7 8. Section 1 of P.L.1994, c.135 (C.30:4-123.53a.) is amended to
8 read as follows:

9 1. a. As used in this act: "Prosecutor" means the county
10 prosecutor of the county in which the defendant was convicted unless
11 the matter was prosecuted by the Attorney General, in which case
12 "prosecutor" means the Attorney General.

13 "Office of Victim Witness Advocacy" means the Office of Victim
14 Witness Advocacy of the county in which the defendant was
15 convicted.

16 b. Notwithstanding any other provision of law to the contrary, the
17 [Department of Corrections] State ²[Parole Board]² shall provide
18 written notice to the prosecutor of the anticipated release from
19 incarceration in a county or State penal institution or the Adult
20 Diagnostic and Treatment Center of a person convicted of murder;
21 manslaughter; aggravated sexual assault; sexual assault; aggravated
22 assault; aggravated criminal sexual contact; kidnapping pursuant to
23 paragraph (2) of subsection c. of N.J.S.2C:13-1; endangering the
24 welfare of a child by engaging in sexual conduct which would impair
25 or debauch the morals of the child pursuant to subsection a. of
26 N.J.S.2C:24-4; endangering the welfare of a child pursuant to
27 paragraph (4) of subsection b. of N.J.S.2C:24-4; luring or enticing
28 pursuant to section 1 of P.L.1993, c.291 (C.2C:13-6); any other
29 offense involving serious bodily injury or an attempt to commit any of
30 the aforementioned offenses. ²In cases involving a release on parole,
31 the State Parole Board shall provide the notice required by this
32 subsection. In all other cases, including but not limited to release
33 upon expiration of sentence or release from incarceration due to a
34 change in sentence, the Department of Corrections shall provide the
35 notice required by this subsection.²

36 c. Notwithstanding any other provision of law to the contrary, the
37 Juvenile Justice Commission established pursuant to section 2 of
38 P.L.1995, c.284 (C.52:17B-170) shall provide written notice to the
39 prosecutor of the anticipated release from incarceration of a juvenile
40 adjudicated delinquent on the basis of an offense which, if committed
41 by an adult, would constitute murder; manslaughter; aggravated sexual
42 assault; sexual assault; aggravated assault; aggravated criminal sexual
43 contact; kidnapping pursuant to paragraph (2) of subsection c. of
44 N.J.S.2C:13-1; endangering the welfare of a child by engaging in
45 sexual conduct which would impair or debauch the morals of the child
46 pursuant to subsection a. of N.J.S.2C:24-4; endangering the welfare

1 of a child pursuant to paragraph (4) of subsection b. of N.J.S.2C:24-4;
2 luring or enticing pursuant to section 1 of P.L.1993, c.291
3 (C.2C:13-6); any other offense involving serious bodily injury or an
4 attempt to commit any of the aforementioned offenses.

5 d. If available, the notice shall be provided to the prosecutor
6 90 days before the inmate's anticipated release; provided however, the
7 notice shall be provided at least 30 days before release. The notice
8 shall include the person's name, identifying factors, offense history,
9 and anticipated future residence. The prosecutor shall notify the
10 Office of Victim and Witness Advocacy and that office shall use any
11 reasonable means available to them to notify the victim of the
12 anticipated release unless the victim has requested not to be notified.

13 e. Upon receipt of notice, the prosecutor shall provide notice to the
14 law enforcement agency responsible for the municipality where the
15 inmate will reside, the municipality in which any victim resides, and
16 such other State and local law enforcement agencies as appropriate for
17 public safety.

18 (cf: P.L.1995, c.280, s.37)

19

20 ²9. Section 3 of P.L.1994, c.131 (C.30:4-6.1) is amended to read
21 as follows:

22 3. a. The chief executive officer of the institution in which an
23 inmate is confined shall notify the prosecutor of the release of an
24 inmate, unless the inmate is released on parole, in which case the State
25 Parole Board shall notify the prosecutor of the release. The
26 notification shall occur as follows:

27 (1) Written notification shall be provided 90 days before the
28 inmate's anticipated release whenever possible, but in no event fewer
29 than 30 days before release if such release is due to the expiration of
30 the inmate's maximum term or is authorized by the State Parole Board
31 or order of the Governor upon commutation of a sentence of
32 incarceration;

33 (2) Immediate telephone notification shall be provided whenever
34 possible, followed by written notification within 48 hours, of pre-trial
35 release, escape from custody or return to custody following an escape
36 of a defendant detained or incarcerated in a county or State penal
37 institution, including the Adult Diagnostic and Treatment Center; and

38 (3) Advance written notification shall be provided whenever
39 possible of any other release of an inmate from custody, including
40 placement in an Intensive Supervision Program or other alternative
41 disposition. If advance notification is not provided, notification shall
42 be provided within 48 hours following release. All notice provided
43 pursuant to this section shall include the inmate's name, identifying
44 information, and anticipated residence.²

45 (cf: P.L.1994, c.131, s.3)

1 ²[9.] 10.² Section 15 of P.L.1979, c.441 (C.30:4-123.59) is
2 amended to read as follows:

3 15. a. Each adult parolee shall at all times remain in the legal
4 custody of the Commissioner of Corrections and under the supervision
5 of the State Parole Board and each juvenile parolee shall at all times
6 remain in the legal custody of the Juvenile Justice Commission
7 established pursuant to section 2 of P.L.1995, c.284 (C.52:17B-170)
8 ²[and under the supervision of the State Parole Board]², except that
9 the Commissioner of Corrections or the Executive Director of the
10 Juvenile Justice Commission, after providing notice to the Attorney
11 General, may consent to the supervision of a parolee by the federal
12 government pursuant to the Witness Security Reform Act,
13 Pub.L.98-473 (18 U.S.C. s.3251 et seq.). ²[A] An adult² parolee,
14 except those under the Witness Security Reform Act, shall remain
15 under the supervision of the [Bureau of Parole] State Parole Board
16 and in the legal custody of the Department of Corrections ²[or] ², and
17 a juvenile parolee, except those under the Witness Security Reform
18 Act, shall remain under the supervision of² the Juvenile Justice
19 Commission, as appropriate, in accordance with the policies and rules
20 of the board.

21 b. Each parolee shall agree, as evidenced by his signature to abide
22 by specific conditions of parole established by the appropriate board
23 panel which shall be enumerated in writing in a certificate of parole
24 and shall be given to the parolee upon release. Such conditions shall
25 include, among other things, a requirement that the parolee conduct
26 himself in society in compliance with all laws and refrain from
27 committing any crime, a requirement that the parolee will not own or
28 possess any firearm as defined in subsection f. of N.J.S.2C:39-1 or any
29 other weapon enumerated in subsection r. of N.J.S.2C:39-1, a
30 requirement that the parolee refrain from the use, possession or
31 distribution of a controlled dangerous substance, controlled substance
32 analog or imitation controlled dangerous substance as defined in
33 N.J.S.2C:35-2 and N.J.S.2C:35-11, a requirement that the parolee
34 obtain permission from his parole officer for any change in his
35 residence, and a requirement that the parolee report at reasonable
36 intervals to an assigned parole officer. In addition, based on prior
37 history of the parolee or information provided by a victim or a member
38 of the family of a murder victim, the member or board panel certifying
39 parole release pursuant to section 11 of P.L.1979, c.441
40 (C.30:4-123.55) may impose any other specific conditions of parole
41 deemed reasonable in order to reduce the likelihood of recurrence of
42 criminal or delinquent behavior. Such special conditions may include,
43 among other things, a requirement that the parolee make full or partial
44 restitution, the amount of which restitution shall be set by the
45 sentencing court upon request of the board. In addition, the member
46 or board panel certifying parole release may, giving due regard to a

1 victim's request, impose a special condition that the parolee have no
2 contact with the victim, which special condition may include, but need
3 not be limited to, restraining the parolee from entering the victim's
4 residence, place of employment, business or school, and from
5 harassing or stalking the victim or victim's relatives in any way.

6 c. The appropriate board panel may in writing relieve a parolee of
7 any parole conditions, and may permit a parolee to reside outside the
8 State pursuant to the provisions of the Uniform Act for Out-of-State
9 Parolee Supervision (N.J.S.2A:168-14 et seq.), the Interstate Compact
10 on Juveniles, P.L.1955, c.55 (C.9:23-1 to 9:23-4), and, with the
11 consent of the Commissioner of the Department of Corrections or the
12 Executive Director of the Juvenile Justice Commission after providing
13 notice to the Attorney General, the federal Witness Security Reform
14 Act, if satisfied that such change will not result in a substantial
15 likelihood that the parolee will commit an offense which would be a
16 crime under the laws of this State. The appropriate board panel may
17 revoke such permission, except in the case of a parolee under the
18 Witness Security Reform Act, or reinstate relieved parole conditions
19 for any period of time during which a parolee is under its jurisdiction.

20 d. The appropriate board panel may parole an inmate to any
21 residential facility funded in whole or in part by the State if the inmate
22 would not otherwise be released pursuant to section 9 of P.L.1979,
23 c.441 (C.30:4-123.53) without such placement. But if the residential
24 facility provides treatment for mental illness or mental retardation, the
25 board panel only may parole the inmate to the facility pursuant to the
26 laws and admissions policies that otherwise govern the admission of
27 persons to that facility, and the facility shall have the authority to
28 discharge the inmate according to the laws and policies that otherwise
29 govern the discharge of persons from the facility, on 10 days' prior
30 notice to the board panel. The board panel shall acknowledge receipt
31 of this notice in writing prior to the discharge. Upon receipt of the
32 notice the board panel shall resume jurisdiction over the inmate.

33 e. [The assigned parole officer] Parole officers shall provide
34 assistance to the parolee in obtaining employment, education or
35 vocational training or in meeting other obligations to assure the
36 parolees compliance with meeting legal requirements related to sex
37 offender notification, address changes and participation in
38 rehabilitation programs as directed by the assigned parole officer.

39 f. The board panel on juvenile commitments and the assigned
40 parole officer shall insure that the least restrictive available alternative
41 is used for any juvenile parolee.

42 g. If the board has granted parole to any inmate from a State
43 correctional facility or juvenile facility and the court has imposed a fine
44 on such inmate, the appropriate board panel shall release such inmate
45 on condition that the parolee make specified fine payments to the
46 ²[Bureau of] State² Parole ²Board² or the Juvenile Justice

1 Commission. For violation of such conditions, or for violation of a
2 special condition requiring restitution, parole may be revoked only for
3 refusal or failure to make a good faith effort to make such payment.

4 h. Upon collection of the fine the same shall be paid over by the
5 Department of Corrections or by the Juvenile Justice Commission to
6 the State Treasury.

7 (cf: P.L.1997, c.218)

8

9 ²[10.] 11.² Section 16 of P.L.1979, c.441 (C.30:4-123.60) is
10 amended to read as follows:

11 16. a. Any parolee who violates a condition of parole may be
12 subject to an order pursuant to section 17 of P.L.1979, c.441
13 (C.30:4-123.61) providing for one or more of the following: (1) That
14 he be required to conform to one or more additional conditions of
15 parole; (2) That he forfeit all or a part of commutation time credits
16 granted pursuant to R.S.30:4-140.

17 b. Any parolee who has seriously or persistently violated the
18 conditions of his parole, may have his parole revoked and may be
19 returned to custody pursuant to sections 18 and 19 of P.L.1979, c.441
20 (C.30:4-123.62 and 30:4-123.63). The board shall be notified
21 immediately upon the arrest or indictment of a parolee or upon the
22 filing of charges that the parolee committed an act which, if committed
23 by an adult, would constitute a crime. The board shall not revoke
24 parole on the basis of new charges which have not resulted in a
25 disposition at the trial level except that upon application by the
26 prosecuting authority, the Juvenile Justice Commission established
27 pursuant to section 2 of P.L.1995, c.284 (C.52:17B-170) or the
28 ²[Chief] Director² of the [Bureau] State Parole Board's Division of
29 Parole, the chairman of the board or his designee may at any time
30 detain the parolee and commence revocation proceedings pursuant to
31 sections 18 and 19 of P.L.1979, c.441 (C.30:4-123.62 and
32 30:4-123.63) when the chairman determines that the new charges
33 against the parolee are of a serious nature and it appears that the
34 parolee otherwise poses a danger to the public safety. In such cases,
35 a parolee shall be informed that, if he testifies at the revocation
36 proceedings, his testimony and the evidence derived there from shall
37 not be used against him in a subsequent criminal prosecution or
38 delinquency adjudication.

39 c. Any parolee who is convicted of a crime or adjudicated
40 delinquent for an act which, if committed by an adult, would constitute
41 a crime, committed while on parole shall have his parole revoked and
42 shall be returned to custody unless the parolee demonstrates, by clear
43 and convincing evidence at a hearing pursuant to section 19 of
44 P.L.1979, c.441 (C.30:4-123.63), that good cause exists why he
45 should not be returned to confinement.

46 (cf: P.L.1995, c.280, s.40)

1 ²[11.] 12.² Section 18 of P.L.1979, c.441 (C.30:4-123.62) is
2 amended to read as follows:

3 18. a. (1) If a parole officer assigned to supervise a parolee has
4 probable cause to believe that the parolee has violated a condition of
5 his parole, such violation being a basis for return to custody pursuant
6 to subsection b. of section 16 of P.L.1979, c.441 (C.30:4-123.60), a
7 designated representative of the chairman of the board may issue a
8 warrant for the arrest of the parolee if evidence indicates that the
9 parolee may not appear at the preliminary hearing or if the parolee
10 poses a danger to the public safety. With the parole warrant, a law
11 enforcement officer may apprehend the delinquent parolee.

12 (2) If a parole officer assigned to supervise a parolee has probable
13 cause to believe that the parolee has committed a crime, has
14 committed an act or is about to commit an act which, if committed by
15 an adult, would constitute a crime, is about to commit a crime or is
16 about to flee the jurisdiction, which violation is a basis for return to
17 custody pursuant to subsection b. of section 16 of P.L.1979, c.441
18 (C.30:4-123.60), and the situation is one of immediate emergency that
19 cannot await the issuance of a warrant by a designated representative,
20 the parole officer, by the parole officer's own warrant, may apprehend
21 the parolee and cause his detention in a suitable facility designated by
22 the Department of Corrections or the Juvenile Justice Commission
23 established pursuant to section 2 of P.L.1995, c.284 (C.52:17B-170),
24 as appropriate, or cause the parolee's confinement in an appropriate
25 institution pending return to a facility designated by the Department
26 of Corrections or the Juvenile Justice Commission, as appropriate, to
27 await the conduction of a preliminary hearing. The warrant shall be in
28 the form prescribed, as appropriate, by the Juvenile Justice
29 Commission or by the ~~]~~Bureau of Parole and approved by the
30 ~~Department of Corrections]~~State Parole Board and, when signed by
31 the officer in charge of the case, shall be a sufficient instrument and
32 authority to all peace officers to assist in the apprehension of the
33 parolee. It shall also be sufficient authority for detention of the
34 parolee in a suitable facility, to await the conduction of the preliminary
35 hearing. Upon enforcement of the warrant, the appropriate board panel
36 shall be promptly notified. No parolee held in custody on a parole
37 warrant shall be entitled to release on bail.

38 b. A parolee retaken under this section shall within 14 days be
39 granted a preliminary hearing to be conducted by a hearing officer not
40 previously involved in the case, unless the parolee ²[or],² the hearing
41 officer ²or the parole officer² requests postponement of the
42 preliminary hearing, which may be granted by the appropriate board
43 panel for good cause, but in no event shall such postponement, if
44 requested by the hearing officer ²or the parole officer², exceed
45 14 days.

46 c. The preliminary hearing shall be for the purpose of determining:

1 (1) Whether there is probable cause to believe that the parolee
2 violated a condition of his parole being the basis for return to custody
3 pursuant to subsection b. of section 16 of P.L.1979, c.441
4 (C.30:4-123.60), and

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

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

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

10 (2) The time, date, place and circumstances of the alleged
11 violation;

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

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

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

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

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

21 f. If the evidence presented at the preliminary hearing does not
22 support a finding of probable cause to believe that the parolee has
23 violated a condition of his parole, such violation being a basis for
24 return to custody pursuant to subsection b. of section 16 of P.L.1979,
25 c.441 (C.30:4-123.60), or if it is otherwise determined that revocation
26 is not desirable, the hearing officer may, in accordance with the
27 provisions of subsection a. of section 16 of P.L.1979, c.441
28 (C.30:4-123.60) and section 17 of P.L.1979, c.441 (C.30:4-123.61),
29 issue an order modifying parole and releasing the offender, or
30 continuing parole and releasing the offender.

31 g. If the evidence presented at the preliminary hearing supports a
32 finding of probable cause to believe that the parolee has violated a
33 condition of his parole, the hearing officer shall determine whether the
34 parolee shall be retained in custody or released on specific conditions
35 pending action by the appropriate board panel.

36 h. Conviction of a crime committed while on parole or adjudication
37 of delinquency for an act which, if committed by an adult, would
38 constitute a crime shall be deemed to constitute probable cause to
39 believe that the parolee has violated a condition of parole.

40 (cf: P.L.1995, c.280, s.42).

41
42 ¹[12. (New section) Notwithstanding any other provision of law
43 to the contrary, a person may serve as both the Commissioner of
44 Corrections and the Chairman of the State Parole Board; except that
45 the person shall receive only the salary of the Commissioner of
46 Corrections.]¹

1 ¹[13.] ²[12.1] 13.² Section 3 of P.L.1993, c.246 (C.43:16A-1.4)
2 is amended to read as follows:

3 3. If the Board of Trustees of the Police and Fireman's Retirement
4 System of New Jersey makes a determination, pursuant to section 9 of
5 P.L.1989, c.204 (C.43:16A-1.2), that the parole officers employed by
6 the [Bureau of Parole in the Department of Corrections]State Parole
7 Board are eligible for membership in the Police and Firemen's
8 Retirement System pursuant to section 1 of P.L.1944, c.255
9 (C.43:16A-1), the enrollment of those parole officers shall occur no
10 earlier than one year after the effective date of this section pursuant to
11 P.L.1993, c.246 (C.43:16A-1.4 et al.).
12 (cf: P.L.1993, c.246, s.3)

13

14 ¹[14.] ²[13.1] 14.² Section 1 of P.L.1968, c.427 (C.2A:154-4) is
15 amended to read as follows:

16 1. All correction officers of the State of New Jersey, parole
17 officers employed by the [Bureau of Parole in the Department of
18 Corrections] State Parole Board and investigators in the Department
19 of Corrections, who have been or who may hereafter be appointed or
20 employed, shall, by virtue of such appointment or employment and in
21 addition to any other power or authority, be empowered to act as
22 officers for the detection, apprehension, arrest and conviction of
23 offenders against the law.
24 (cf: P.L.1993, c.246, s.1)

25

26 ¹[15.] ²[14.1] 15.² N.J.S.2C:39-6 is amended to read as follows:

27 2C:39-6. a. Provided a person complies with the requirements of
28 subsection j. of this section, N.J.S.2C:39-5 does not apply to:

29 (1) Members of the Armed Forces of the United States or of the
30 National Guard while actually on duty, or while traveling between
31 places of duty and carrying authorized weapons in the manner
32 prescribed by the appropriate military authorities;

33 (2) Federal law enforcement officers, and any other federal officers
34 and employees required to carry firearms in the performance of their
35 official duties;

36 (3) Members of the State Police and, under conditions prescribed
37 by the superintendent, members of the Marine Law Enforcement
38 Bureau of the Division of State Police;

39 (4) A sheriff, undersheriff, sheriff's officer, county prosecutor,
40 assistant prosecutor, prosecutor's detective or investigator, deputy
41 attorney general or State investigator employed by the Division of
42 Criminal Justice of the Department of Law and Public Safety,
43 investigator employed by the State Commission of Investigation,
44 inspector of the Alcoholic Beverage Control Enforcement Bureau of
45 the Division of State Police in the Department of Law and Public
46 Safety authorized to carry such weapons by the Superintendent of

- 1 State Police, State park ranger, or State conservation officer;
- 2 (5) A prison or jail warden of any penal institution in this State or
3 his deputies, or an employee of the Department of Corrections
4 engaged in the interstate transportation of convicted offenders, while
5 in the performance of his duties, and when required to possess the
6 weapon by his superior officer, or a correction officer or keeper of a
7 penal institution in this State at all times while in the State of New
8 Jersey, provided he annually passes an examination approved by the
9 superintendent testing his proficiency in the handling of firearms;
- 10 (6) A civilian employee of the United States Government under the
11 supervision of the commanding officer of any post, camp, station, base
12 or other military or naval installation located in this State who is
13 required, in the performance of his official duties, to carry firearms,
14 and who is authorized to carry such firearms by said commanding
15 officer, while in the actual performance of his official duties;
- 16 (7) (a) A regularly employed member, including a detective, of the
17 police department of any county or municipality, or of any State,
18 interstate, municipal or county park police force or boulevard police
19 force, at all times while in the State of New Jersey;
- 20 (b) A special law enforcement officer authorized to carry a weapon
21 as provided in subsection b. of section 7 of P.L.1985, c.439
22 (C.40A:14-146.14);
- 23 (c) An airport security officer or a special law enforcement officer
24 appointed by the governing body of any county or municipality, except
25 as provided in subsection b. of this section, or by the commission,
26 board or other body having control of a county park or airport or
27 boulevard police force, while engaged in the actual performance of his
28 official duties and when specifically authorized by the governing body
29 to carry weapons;
- 30 (8) A full-time, paid member of a paid or part-paid fire department
31 or force of any municipality who is assigned full-time or part-time to
32 an arson investigation unit created pursuant to section 1 of P.L.1981,
33 c.409 (C.40A:14-7.1) or to the county arson investigation unit in the
34 county prosecutor's office, while either engaged in the actual
35 performance of arson investigation duties or while actually on call to
36 perform arson investigation duties and when specifically authorized by
37 the governing body or the county prosecutor, as the case may be, to
38 carry weapons. Prior to being permitted to carry a firearm, such a
39 member shall take and successfully complete a firearms training course
40 administered by the Police Training Commission pursuant to P.L.1961,
41 c.56 (C.52:17B-66 et seq.), and shall annually qualify in the use of a
42 revolver or similar weapon prior to being permitted to carry a firearm;
- 43 (9) A juvenile corrections officer in the employment of the Juvenile
44 Justice Commission established pursuant to section 2 of P.L.1995,
45 c.284 (C.52:17B-170) subject to the regulations promulgated by the
46 commission.

1 b. Subsections a., b. and c. of N.J.S.2C:39-5 do not apply to:

2 (1) A law enforcement officer employed by a governmental agency
3 outside of the State of New Jersey while actually engaged in his
4 official duties, provided, however, that he has first notified the
5 superintendent or the chief law enforcement officer of the municipality
6 or the prosecutor of the county in which he is engaged; or

7 (2) A licensed dealer in firearms and his registered employees
8 during the course of their normal business while traveling to and from
9 their place of business and other places for the purpose of
10 demonstration, exhibition or delivery in connection with a sale,
11 provided, however, that the weapon is carried in the manner specified
12 in subsection g. of this section.

13 c. Provided a person complies with the requirements of subsection
14 j. of this section, subsections b. and c. of N.J.S.2C:39-5 do not apply
15 to:

16 (1) A special agent of the Division of Taxation who has passed an
17 examination in an approved police training program testing proficiency
18 in the handling of any firearm which he may be required to carry, while
19 in the actual performance of his official duties and while going to or
20 from his place of duty, or any other police officer, while in the actual
21 performance of his official duties;

22 (2) A State deputy conservation officer or a full-time employee of
23 the Division of Parks and Forestry having the power of arrest and
24 authorized to carry weapons, while in the actual performance of his
25 official duties;

26 (3) (Deleted by amendment, P.L.1986, c.150.)

27 (4) A court attendant serving as such under appointment by the
28 sheriff of the county or by the judge of any municipal court or other
29 court of this State, while in the actual performance of his official
30 duties;

31 (5) A guard in the employ of any railway express company,
32 banking or building and loan or savings and loan institution of this
33 State, while in the actual performance of his official duties;

34 (6) A member of a legally recognized military organization while
35 actually under orders or while going to or from the prescribed place
36 of meeting and carrying the weapons prescribed for drill, exercise or
37 parade;

38 (7) An officer of the Society for the Prevention of Cruelty to
39 Animals, while in the actual performance of his duties;

40 (8) An employee of a public utilities corporation actually engaged
41 in the transportation of explosives;

42 (9) A railway policeman, except a transit police officer of the New
43 Jersey Transit Police Department, at all times while in the State of
44 New Jersey, provided that he has passed an approved police academy
45 training program consisting of at least 280 hours. The training
46 program shall include, but need not be limited to, the handling of

1 firearms, community relations, and juvenile relations;

2 (10) A campus police officer appointed under P.L.1970, c.211
3 (C.18A:6-4.2 et seq.) at all times. Prior to being permitted to carry a
4 firearm, a campus police officer shall take and successfully complete
5 a firearms training course administered by the Police Training
6 Commission, pursuant to P.L.1961, c.56 (C.52:17B-66 et seq.), and
7 shall annually qualify in the use of a revolver or similar weapon prior
8 to being permitted to carry a firearm;

9 (11) A person who has not been convicted of a crime under the
10 laws of this State or under the laws of another state or the United
11 States, and who is employed as a full-time security guard for a nuclear
12 power plant under the license of the Nuclear Regulatory Commission,
13 while in the actual performance of his official duties;

14 (12) A transit police officer of the New Jersey Transit Police
15 Department, at all times while in the State of New Jersey, provided the
16 officer has satisfied the training requirements of the Police Training
17 Commission, pursuant to subsection c. of section 2 of P.L.1989, c.291
18 (C.27:25-15.1);

19 (13) A parole officer employed by the [Bureau of Parole in the
20 Department of Corrections] State Parole Board at all times. Prior to
21 being permitted to carry a firearm, a parole officer shall take and
22 successfully complete a basic course for regular police officer training
23 administered by the Police Training Commission, pursuant to
24 P.L.1961, c.56 (C.52:17B-66 et seq.), and shall annually qualify in the
25 use of a revolver or similar weapon prior to being permitted to carry
26 a firearm;

27 (14) A Human Services police officer at all times while in the State
28 of New Jersey, as authorized by the Commissioner of Human Services;

29 (15) A person or employee of any person who, pursuant to and as
30 required by a contract with a governmental entity, supervises or
31 transports persons charged with or convicted of an offense; or

32 (16) A housing authority police officer appointed under P.L.1997,
33 c.210 (C.40A:14-146.19 et al.) at all times while in the State of New
34 Jersey.

35 d. (1) Subsections c. and d. of N.J.S.2C:39-5 do not apply to
36 antique firearms, provided that such antique firearms are unloaded or
37 are being fired for the purposes of exhibition or demonstration at an
38 authorized target range or in such other manner as has been approved
39 in writing by the chief law enforcement officer of the municipality in
40 which the exhibition or demonstration is held, or if not held on
41 property under the control of a particular municipality, the
42 superintendent.

43 (2) Subsection a. of N.J.S.2C:39-3 and subsection d. of
44 N.J.S.2C:39-5 do not apply to an antique cannon that is capable of
45 being fired but that is unloaded and immobile, provided that the
46 antique cannon is possessed by (a) a scholastic institution, a museum,

1 a municipality, a county or the State, or (b) a person who obtained a
2 firearms purchaser identification card as specified in N.J.S.2C:58-3.

3 (3) Subsection a. of N.J.S.2C:39-3 and subsection d. of
4 N.J.S.2C:39-5 do not apply to an unloaded antique cannon that is
5 being transported by one eligible to possess it, in compliance with
6 regulations the superintendent may promulgate, between its permanent
7 location and place of purchase or repair.

8 (4) Subsection a. of N.J.S.2C:39-3 and subsection d. of
9 N.J.S.2C:39-5 do not apply to antique cannons that are being loaded
10 or fired by one eligible to possess an antique cannon, for purposes of
11 exhibition or demonstration at an authorized target range or in the
12 manner as has been approved in writing by the chief law enforcement
13 officer of the municipality in which the exhibition or demonstration is
14 held, or if not held on property under the control of a particular
15 municipality, the superintendent, provided that performer has given at
16 least 30 days' notice to the superintendent.

17 (5) Subsection a. of N.J.S.2C:39-3 and subsection d. of
18 N.J.S.2C:39-5 do not apply to the transportation of unloaded antique
19 cannons directly to or from exhibitions or demonstrations authorized
20 under paragraph (4) of subsection d. of this section, provided that the
21 transportation is in compliance with safety regulations the
22 superintendent may promulgate. Nor do those subsections apply to
23 transportation directly to or from exhibitions or demonstrations
24 authorized under the law of another jurisdiction, provided that the
25 superintendent has been given 30 days' notice and that the
26 transportation is in compliance with safety regulations the
27 superintendent may promulgate.

28 e. Nothing in subsections b., c. and d. of N.J.S.2C:39-5 shall be
29 construed to prevent a person keeping or carrying about his place of
30 business, residence, premises or other land owned or possessed by
31 him, any firearm, or from carrying the same, in the manner specified
32 in subsection g. of this section, from any place of purchase to his
33 residence or place of business, between his dwelling and his place of
34 business, between one place of business or residence and another when
35 moving, or between his dwelling or place of business and place where
36 such firearms are repaired, for the purpose of repair. For the purposes
37 of this section, a place of business shall be deemed to be a fixed
38 location.

39 f. Nothing in subsections b., c. and d. of N.J.S.2C:39-5 shall be
40 construed to prevent:

41 (1) A member of any rifle or pistol club organized in accordance
42 with the rules prescribed by the National Board for the Promotion of
43 Rifle Practice, in going to or from a place of target practice, carrying
44 such firearms as are necessary for said target practice, provided that
45 the club has filed a copy of its charter with the superintendent and
46 annually submits a list of its members to the superintendent and

1 provided further that the firearms are carried in the manner specified
2 in subsection g. of this section;

3 (2) A person carrying a firearm or knife in the woods or fields or
4 upon the waters of this State for the purpose of hunting, target
5 practice or fishing, provided that the firearm or knife is legal and
6 appropriate for hunting or fishing purposes in this State and he has in
7 his possession a valid hunting license, or, with respect to fresh water
8 fishing, a valid fishing license;

9 (3) A person transporting any firearm or knife while traveling:

10 (a) Directly to or from any place for the purpose of hunting or
11 fishing, provided the person has in his possession a valid hunting or
12 fishing license; or

13 (b) Directly to or from any target range, or other authorized place
14 for the purpose of practice, match, target, trap or skeet shooting
15 exhibitions, provided in all cases that during the course of the travel
16 all firearms are carried in the manner specified in subsection g. of this
17 section and the person has complied with all the provisions and
18 requirements of Title 23 of the Revised Statutes and any amendments
19 thereto and all rules and regulations promulgated thereunder; or

20 (c) In the case of a firearm, directly to or from any exhibition or
21 display of firearms which is sponsored by any law enforcement agency,
22 any rifle or pistol club, or any firearms collectors club, for the purpose
23 of displaying the firearms to the public or to the members of the
24 organization or club, provided, however, that not less than 30 days
25 prior to the exhibition or display, notice of the exhibition or display
26 shall be given to the Superintendent of the State Police by the
27 sponsoring organization or club, and the sponsor has complied with
28 such reasonable safety regulations as the superintendent may
29 promulgate. Any firearms transported pursuant to this section shall be
30 transported in the manner specified in subsection g. of this section;

31 (4) A person from keeping or carrying about a private or
32 commercial aircraft or any boat, or from transporting to or from such
33 vessel for the purpose of installation or repair a visual distress
34 signalling device approved by the United States Coast Guard.

35 g. All weapons being transported under paragraph (2) of subsection
36 b., subsection e., or paragraph (1) or (3) of subsection f. of this
37 section shall be carried unloaded and contained in a closed and
38 fastened case, gunbox, securely tied package, or locked in the trunk of
39 the automobile in which it is being transported, and in the course of
40 travel shall include only such deviations as are reasonably necessary
41 under the circumstances.

42 h. Nothing in subsection d. of N.J.S.2C:39-5 shall be construed to
43 prevent any employee of a public utility, as defined in R.S.48:2-13,
44 doing business in this State or any United States Postal Service
45 employee, while in the actual performance of duties which specifically
46 require regular and frequent visits to private premises, from

1 possessing, carrying or using any device which projects, releases or
2 emits any substance specified as being noninjurious to canines or other
3 animals by the Commissioner of Health and Senior Services and which
4 immobilizes only on a temporary basis and produces only temporary
5 physical discomfort through being vaporized or otherwise dispensed
6 in the air for the sole purpose of repelling canine or other animal
7 attacks.

8 The device shall be used solely to repel only those canine or other
9 animal attacks when the canines or other animals are not restrained in
10 a fashion sufficient to allow the employee to properly perform his
11 duties.

12 Any device used pursuant to this act shall be selected from a list of
13 products, which consist of active and inert ingredients, permitted by
14 the Commissioner of Health and Senior Services.

15 i. Nothing in N.J.S.2C:39-5 shall be construed to prevent any
16 person who is 18 years of age or older and who has not been convicted
17 of a felony, from possession for the purpose of personal self-defense
18 of one pocket-sized device which contains and releases not more than
19 three-quarters of an ounce of chemical substance not ordinarily
20 capable of lethal use or of inflicting serious bodily injury, but rather,
21 is intended to produce temporary physical discomfort or disability
22 through being vaporized or otherwise dispensed in the air. Any person
23 in possession of any device in violation of this subsection shall be
24 deemed and adjudged to be a disorderly person, and upon conviction
25 thereof, shall be punished by a fine of not less than \$100.00.

26 j. A person shall qualify for an exemption from the provisions of
27 N.J.S.2C:39-5, as specified under subsections a. and c. of this section,
28 if the person has satisfactorily completed a firearms training course
29 approved by the Police Training Commission.

30 Such exempt person shall not possess or carry a firearm until the
31 person has satisfactorily completed a firearms training course and shall
32 annually qualify in the use of a revolver or similar weapon. For
33 purposes of this subsection, a "firearms training course" means a
34 course of instruction in the safe use, maintenance and storage of
35 firearms which is approved by the Police Training Commission. The
36 commission shall approve a firearms training course if the
37 requirements of the course are substantially equivalent to the
38 requirements for firearms training provided by police training courses
39 which are certified under section 6 of P.L.1961, c.56 (C.52:17B-71).
40 A person who is specified in paragraph (1), (2), (3) or (6) of
41 subsection a. of this section shall be exempt from the requirements of
42 this subsection.

43 k. Nothing in subsection d. of N.J.S.2C:39-5 shall be construed to
44 prevent any financial institution, or any duly authorized personnel of
45 the institution, from possessing, carrying or using for the protection of
46 money or property, any device which projects, releases or emits tear

1 gas or other substances intended to produce temporary physical
2 discomfort or temporary identification.

3 1. Nothing in subsection b. of N.J.S.2C:39-5 shall be construed to
4 prevent a law enforcement officer who retired in good standing,
5 including a retirement because of a disability pursuant to section 6 of
6 P.L.1944, c.255 (C.43:16A-6), section 7 of P.L.1944, c.255
7 (C.43:16A-7), section 1 of P.L.1989, c.103 (C.43:16A-6.1) or any
8 substantially similar statute governing the disability retirement of
9 federal law enforcement officers, provided the officer was a regularly
10 employed, full-time law enforcement officer for an aggregate of five
11 or more years prior to his disability retirement and further provided
12 that the disability which constituted the basis for the officer's
13 retirement did not involve a certification that the officer was mentally
14 incapacitated for the performance of his usual law enforcement duties
15 and any other available duty in the department which his employer was
16 willing to assign to him or does not subject that retired officer to any
17 of the disabilities set forth in subsection c. of N.J.S.2C:58-3 which
18 would disqualify the retired officer from possessing or carrying a
19 firearm, who semi-annually qualifies in the use of the handgun he is
20 permitted to carry in accordance with the requirements and procedures
21 established by the Attorney General pursuant to subsection j. of this
22 section and pays the actual costs associated with those semi-annual
23 qualifications, who is less than 70 years of age, and who was regularly
24 employed as a full-time member of the State Police; a full-time
25 member of an interstate police force; a full-time member of a county
26 or municipal police department in this State; a full-time member of a
27 State law enforcement agency; a full-time sheriff, undersheriff or
28 sheriff's officer of a county of this State; a full-time State or county
29 corrections officer; a full-time county park police officer; a full-time
30 county prosecutor's detective or investigator; or a full-time federal law
31 enforcement officer from carrying a handgun in the same manner as
32 law enforcement officers exempted under paragraph (7) of subsection
33 a. of this section under the conditions provided herein:

34 (1) The retired law enforcement officer, within six months after
35 retirement, shall make application in writing to the Superintendent of
36 State Police for approval to carry a handgun for one year. An
37 application for annual renewal shall be submitted in the same manner.

38 (2) Upon receipt of the written application of the retired law
39 enforcement officer, the superintendent shall request a verification of
40 service from the chief law enforcement officer of the organization in
41 which the retired officer was last regularly employed as a full-time law
42 enforcement officer prior to retiring. The verification of service shall
43 include:

44 (a) The name and address of the retired officer;

45 (b) The date that the retired officer was hired and the date that the
46 officer retired;

1 (c) A list of all handguns known to be registered to that officer;

2 (d) A statement that, to the reasonable knowledge of the chief law
3 enforcement officer, the retired officer is not subject to any of the
4 restrictions set forth in subsection c. of N.J.S.2C:58-3; and

5 (e) A statement that the officer retired in good standing.

6 (3) If the superintendent approves a retired officer's application or
7 reapplication to carry a handgun pursuant to the provisions of this
8 subsection, the superintendent shall notify in writing the chief law
9 enforcement officer of the municipality wherein that retired officer
10 resides. In the event the retired officer resides in a municipality which
11 has no chief law enforcement officer or law enforcement agency, the
12 superintendent shall maintain a record of the approval.

13 (4) The superintendent shall issue to an approved retired officer an
14 identification card permitting the retired officer to carry a handgun
15 pursuant to this subsection. This identification card shall be valid for
16 one year from the date of issuance and shall be valid throughout the
17 State. The identification card shall not be transferable to any other
18 person. The identification card shall be carried at all times on the
19 person of the retired officer while the retired officer is carrying a
20 handgun. The retired officer shall produce the identification card for
21 review on the demand of any law enforcement officer or authority.

22 (5) Any person aggrieved by the denial of the superintendent of
23 approval for a permit to carry a handgun pursuant to this subsection
24 may request a hearing in the Superior Court of New Jersey in the
25 county in which he resides by filing a written request for such a
26 hearing within 30 days of the denial. Copies of the request shall be
27 served upon the superintendent and the county prosecutor. The
28 hearing shall be held within 30 days of the filing of the request, and no
29 formal pleading or filing fee shall be required. Appeals from the
30 determination of such a hearing shall be in accordance with law and
31 the rules governing the courts of this State.

32 (6) A judge of the Superior Court may revoke a retired officer's
33 privilege to carry a handgun pursuant to this subsection for good cause
34 shown on the application of any interested person. A person who
35 becomes subject to any of the disabilities set forth in subsection c. of
36 N.J.S.2C:58-3 shall surrender, as prescribed by the superintendent, his
37 identification card issued under paragraph (4) of this subsection to the
38 chief law enforcement officer of the municipality wherein he resides or
39 the superintendent, and shall be permanently disqualified to carry a
40 handgun under this subsection.

41 (7) The superintendent may charge a reasonable application fee to
42 retired officers to offset any costs associated with administering the
43 application process set forth in this subsection.

44 m. Nothing in subsection d. of N.J.S.2C:39-5 shall be construed to
45 prevent duly authorized personnel of the New Jersey Division of Fish,
46 Game and Wildlife, while in the actual performance of duties, from

1 possessing, transporting or using any device that projects, releases or
2 emits any substance specified as being non-injurious to wildlife by the
3 Director of the Division of Animal Health in the Department of
4 Agriculture, and which may immobilize wildlife and produces only
5 temporary physical discomfort through being vaporized or otherwise
6 dispensed in the air for the purpose of repelling bear or other animal
7 attacks or for the aversive conditioning of wildlife.

8 n. Nothing in subsection b., c., d. or e. of N.J.S.2C:39-5 shall be
9 construed to prevent duly authorized personnel of the New Jersey
10 Division of Fish, Game and Wildlife, while in the actual performance
11 of duties, from possessing, transporting or using hand held pistol-like
12 devices, rifles or shotguns that launch pyrotechnic missiles for the sole
13 purpose of frightening, hazing or aversive conditioning of nuisance or
14 depredating wildlife; from possessing, transporting or using rifles,
15 pistols or similar devices for the sole purpose of chemically
16 immobilizing wild or non-domestic animals; or, provided the duly
17 authorized person complies with the requirements of subsection j. of
18 this section, from possessing, transporting or using rifles or shotguns,
19 upon completion of a Police Training Commission approved training
20 course, in order to dispatch injured or dangerous animals or for
21 non-lethal use for the purpose of frightening, hazing or aversive
22 conditioning of nuisance or depredating wildlife.

23 (cf: P.L.1997, c.393, s.1)

24

25 ¹[16.] ²[15.¹] 16.² Section 2 of P.L.1997, c.117 (C.2C:43-7.2)
26 is amended to read as follows:

27 2. a. A court imposing a sentence of incarceration for a crime of
28 the first or second degree shall fix a minimum term of 85% of the
29 sentence during which the defendant shall not be eligible for parole if
30 the crime is a violent crime as defined in subsection d. of this section.

31 b. The provisions of subsection a. of this section shall not be
32 construed or applied to reduce the time that must be served before
33 eligibility for parole by an inmate sentenced to a mandatory minimum
34 period of incarceration.

35 c. Notwithstanding any other provision of law to the contrary and
36 in addition to any other sentence imposed, a court imposing a
37 minimum period of parole ineligibility of 85 percent of the sentence
38 pursuant to this section shall also¹[, unless the court imposes a
39 sentence of lifetime parole supervision pursuant to P.L. , c.
40 (C.)(now pending before the Legislature as Senate Bill No. 524
41 SCS),]¹ impose a five-year term of parole supervision if the defendant
42 is being sentenced for a crime of the first degree, or a three-year term
43 of parole supervision if the defendant is being sentenced for a crime of
44 the second degree. The term of parole supervision shall commence
45 upon the completion of the sentence of incarceration imposed by the
46 court pursuant to subsection a. of this section unless the defendant is

1 serving a sentence of incarceration for another crime at the time he
2 completes the sentence of incarceration imposed pursuant to
3 subsection a., in which case the term of parole supervision shall
4 commence immediately upon the defendant's release from
5 incarceration. During the term of parole supervision the defendant
6 shall remain in release status in the community in the legal custody of
7 the Commissioner of the Department of Corrections and shall be
8 supervised by the [Bureau of Parole of the Department of
9 Corrections] State Parole Board as if on parole and shall be subject to
10 the provisions and conditions of section 3 of P.L.1997, c.117
11 (C.30:4-123.51b).

12 d. For the purposes of this section, "violent crime" means any
13 crime in which the actor causes death, causes serious bodily injury as
14 defined in subsection b. of N.J.S.2C:11-1, or uses or threatens the
15 immediate use of a deadly weapon. "Violent crime" also includes any
16 aggravated sexual assault or sexual assault in which the actor uses, or
17 threatens the immediate use of, physical force.

18 For the purposes of this section, "deadly weapon" means any
19 firearm or other weapon, device, instrument, material or substance,
20 whether animate or inanimate, which in the manner it is used or is
21 intended to be used, is known to be capable of producing death or
22 serious bodily injury.

23 e. A court shall not impose sentence pursuant to this section unless
24 the ground therefor has been established at a hearing after the
25 conviction of the defendant and on written notice to him of the ground
26 proposed. The defendant shall have the right to hear and controvert
27 the evidence against him and to offer evidence upon the issue.

28 (cf: P.L.1997, c.117, s.1)

29

30 ²17. Section 5 of P.L.1979, c.441 (C.30:4-123.49) is amended to
31 read as follows:

32 5. a. The chairman of the board, after consulting with the board,
33 shall assign any case not otherwise assigned, such as county jail,
34 workhouse, or penitentiary cases, to a special panel composed of any
35 two members or any one member and one [senior] hearing officer as
36 necessary for the efficient functioning of the board.

37 b. Nothing contained in this act shall be deemed to preclude a
38 member of any board panel from exercising all the functions, powers,
39 and duties of a hearing officer upon designation by the chairman;
40 provided, however, that no member so designated shall participate in
41 the disposition of a panel or board review of his initial decision.

42 c. No hearing officer assigned to review adult cases shall be
43 assigned to review juvenile cases pursuant to sections 13 and 19 of
44 P.L.1979, c.441 (C.30:4-123.57 and 30:4-123.63), nor shall any
45 hearing officer assigned to review juvenile cases be assigned to review
46 adult cases.

1 d. Representatives of the board or the chairman designated
2 pursuant to this act may include employees of the board and
3 employees of other agencies such as the Department of Corrections or
4 the Juvenile Justice Commission established pursuant to section 2 of
5 P.L.1995, c.284 (C.52:17B-170), provided that no employee of the
6 Department of Corrections or the Juvenile Justice Commission shall be
7 so designated without the approval of the Commissioner of
8 Corrections or the Executive Director of the Commission. Such
9 representatives shall not participate in the disposition of parole cases.²
10 (cf: P.L.1995, c.280, s.36)

11

12 ²18. Section 8 of P.L.1979, c.441 (C.30:4-123.52) is amended to
13 read as follows:

14 8. a. If the appropriate board panel determines that an adult inmate
15 has seriously or persistently violated specifically defined institutional
16 rules or has engaged in conduct indictable in nature while incarcerated,
17 the inmate's parole eligibility date may be increased pursuant to a
18 schedule developed by the board. In developing such schedule,
19 particular emphasis shall be placed on the severity of the inmate's
20 conduct. The board shall deduct from the scheduled penalty any loss
21 of commutation time imposed by the Department of Corrections
22 pursuant to R.S.30:4-140.

23 b. If the appropriate board panel determines that an adult inmate
24 has made exceptional progress, as evidenced by documented
25 participation and progress in institutional or community educational,
26 training or other programs, the inmate's parole eligibility date may be
27 decreased, except that no parole eligibility date shall be set below the
28 primary parole eligibility date without the consent of the sentencing
29 court, which need not conduct a hearing and in no case shall a parole
30 eligibility date be set below any judicial or statutory mandatory
31 minimum term, including any parole eligibility date set pursuant to
32 section 23 of this act.

33 c. The appropriate board panel shall annually monitor the progress
34 of each adult inmate and provide the inmate with a written statement
35 of any changes in his parole eligibility.

36 d. At any time while an inmate is committed to the custody of the
37 Commissioner of Corrections, the appropriate board panel or the
38 Parole Board may require, as often as it deems necessary, that inmate
39 to undergo an in-depth preparole psychological evaluation conducted
40 by a psychologist [employed by the Parole Board or, where
41 appropriate after consultation with the Department of Corrections, by
42 a psychologist at the Adult Diagnostic and Treatment Center, to
43 provide current and accurate information to assess the inmate's
44 suitability for parole].

45 e. Prior to the parole eligibility date of each adult inmate, an
46 objective risk assessment shall be performed by board staff or by some

1 other appropriate agent of the State. The risk assessment, which shall
2 be in a form prescribed by the board pursuant to rule and regulation,
3 shall consist of both static and dynamic factors which may assist the
4 board panel in determining whether the inmate shall be certified for
5 parole and, if paroled, the level of supervision the parolee may require.
6 In addition to the information otherwise gathered for and incorporated
7 in the pre-parole report, the assessment shall include evaluations of the
8 inmate's ability to function independently, the inmate's educational and
9 employment background, the inmate's family and marital history, and
10 such other information and factors as the board may deem appropriate
11 and necessary.²

12 (cf: P.L.1997, c.217, s.2)

13

14 ¹[17.] ²[16.¹] 19.² This act shall take effect ²[immediately] on
15 the 120th day following enactment².

FISCAL NOTE
 [Second Reprint]
ASSEMBLY, No. 3214
STATE OF NEW JERSEY
209th LEGISLATURE

DATED: APRIL 16, 2001

SUMMARY

Synopsis: Transfers the Bureau of Parole in the Department of Corrections to the State Parole Board.

Type of Impact: General Fund expenditure.

Agencies Affected: Department of Corrections, State Parole Board

Executive Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Cost	Unknown - See comments below.		

- ! The Office of Legislative Services **concurs** with the Executive estimate.
- ! The bill would transfer the Bureau of Parole to the State Parole board consolidating the two agencies under one direct authority.
- ! The Department of Corrections states that the transfer of the responsibilities of the Division of Parole which are funded under the division's budget would generate no cost to the State. However, the department notes that there are several functions which the Department of Corrections currently provides to the Division of Parole, which, if not continued after the transfer to the Parole Board, would need to be provided by the Parole Board at an unknown additional cost. These include: Central Communications monitoring and servicing; Central transport; DOC lab services; Correction staff training academy; Firearm re-qualification; Firearm issuance and storage; Radio maintenance; Office of Information Technology; Special Investigation Division; Equal Employment Division; Office of Community Programs; Disciplinary hearing officers; Standards development unit; Employee relations; and Central office support.

BILL DESCRIPTION

Assembly Bill No. 3214 (2R) of 2001 would transfer the Bureau of Parole to the State Parole Board consolidating the two agencies under one direct authority. Presently, two agencies have the responsibility for parole: the State Parole Board and the Bureau of Parole. The State Parole Board, which operates as an autonomous agency, determines when an inmate who is eligible for parole may be safely released. The Bureau of Parole, which is in the Department of Corrections, is charged with the responsibility of supervising an inmate once that inmate is released. Under the provisions of this bill, the State Parole Board would be charged with the responsibilities of notifying the prosecutor when an inmate is scheduled to be released.

FISCAL ANALYSIS

EXECUTIVE BRANCH

The Department of Corrections states that the transfer of the responsibilities of the Division of Parole which are funded under the division's budget would generate no cost to the State. However, the department notes that there are several functions which the Department of Corrections currently provides to the Division of Parole, which, if not continued after the transfer to the Parole Board, would need to be provided by the Parole Board at an unknown additional cost. These include: Central Communications monitoring and servicing; Central transport; DOC lab services; Correction staff training academy; Firearm re-qualification; Firearm issuance and storage; Radio maintenance; Office of Information Technology; Special Investigation Division; Equal Employment Division; Office of Community Programs; Disciplinary hearing officers; Standards development unit; Employee relations; and Central office support. The department notes that the fiscal impact of the bill on the DOC and the State Parole Board cannot be determined until agreement is reached on those services which the department will continue to provide and those which the Parole Board will assume.

OFFICE OF LEGISLATIVE SERVICES

The Office of Legislative Services concurs with the Executive estimate.

Section: *Judiciary*

Analyst: *Anne C. Raughley*
Lead Fiscal Analyst

Approved: *Alan R. Kooney*
Legislative Budget and Finance Officer

This fiscal note has been prepared pursuant to P.L.1980, c.67.

P.L. 2001, CHAPTER 79, *approved May 4, 2001*
Senate, No. 2026 (*Second Reprint*)

1 **AN ACT** concerning parole and revising various parts of the statutory
2 law.

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

6
7 1. (New section) a. ²[All] The Bureau of Parole in the
8 Department of Corrections is hereby constituted as the Division of
9 Parole in the State Parole Board, and all² functions, powers and duties
10 of the existing Bureau of Parole ²[in the Department of Corrections]²
11 are hereby transferred to the State Parole Board.

12 b. All files, books, papers, records, equipment and other property
13 of the Bureau of Parole in the Department of Corrections shall be
14 transferred to the State Parole Board.

15 c. All appropriations and other moneys available and to become
16 available to the Bureau of Parole in the Department of Corrections,
17 the functions, powers and duties of which have been assigned or
18 transferred herein, ²or to the Department of Corrections on behalf of
19 the Bureau of Parole, including such funds as are appropriated for the
20 administration of the Bureau of Parole,² are hereby transferred to the
21 State Parole Board and shall be available for the objects and purposes
22 for which appropriated, subject to any terms, restrictions, limitations
23 or other requirements imposed by State or Federal law.

24 d. The employees of the Bureau of Parole in the Department of
25 Corrections are hereby transferred to the State Parole Board.

26 e. Nothing in P.L. c. (C.) (now pending before the
27 Legislature as this bill) shall be construed to deprive any person of any
28 tenure rights or of any right or protection provided him by Title ²[11]
29 11A² of the ²[Revised] New Jersey² Statutes, Civil Service, or under
30 any pension law or retirement system.

31 f. P.L. c. (C.) (now pending before the Legislature as this
32 bill) shall not affect actions or proceedings, civil or criminal, brought
33 by or against the Bureau of Parole in the Department of Corrections,
34 the functions, powers and duties of which have been herein assigned
35 or transferred to the State Parole Board.

36
37 2. Section 1 of P.L.1979, c. 441 (C. 30:4-123.45) is amended to

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 8, 2001.

² Senate SBA committee amendments adopted March 15, 2001.

1 read as follows:

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

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

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

7 (2) "Juvenile inmate" means any person under commitment as a
8 juvenile delinquent pursuant to section 25 of P.L.1982, c.77
9 (C.2A:4A-44).

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

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

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

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

29 (7) "Commission" means the Juvenile Justice Commission
30 established pursuant to section 2 of P.L.1995, c.284 (C.52:17B-170).

31 (8) "Parole officer" means, with respect to an adult inmate, an
32 officer assigned by the [Bureau of Parole] Chairman of the State
33 Parole Board or his designee and, with respect to a juvenile inmate, a
34 person assigned by the commission.

35 (cf: P.L.1995, c.280, s.34).

36

37 3. Section 1 of P.L.1997, c.215 (C.30:4-123.47a) is amended to
38 read as follows:

39 1. There is hereby established a Parole Advisory Board in, but not
40 of, the [Bureau of Parole] State Parole Board. Notwithstanding the
41 allocation of the board within the [bureau] State Parole Board, the
42 [bureau] State Parole Board or any employee thereof shall not
43 exercise any control over the [board] Parole Advisory Board. The
44 advisory board shall consist of 23 members. It shall include in its
45 membership the [Chief of the Bureau of Parole in the Department of
46 Corrections] Chairman of the State Parole Board or his designee, who

1 shall serve ex officio; one member representing each of the following
2 organizations and groups, who shall be appointed by the Governor:
3 [the State Parole Board,] the Department of Corrections, the
4 Department of Health and Senior Services, the Department of Law and
5 Public Safety, Office of the Governor, the Administrative Office of the
6 Courts, the Victims of Crime Compensation Board, the New Jersey
7 Chapter of the American Correctional Association, the County
8 Prosecutors Association of New Jersey, the Sheriffs' Association of
9 New Jersey, the New Jersey Wardens Association, the New Jersey
10 State Association of Chiefs of Police, the American Parole and
11 Probation Association, Governor's Council on Alcoholism and Drug
12 Abuse, the community at large, treatment providers, victims' rights
13 groups and former inmates who have successfully completed parole.
14 Two members of the Senate, who shall not be of the same political
15 party and who shall serve during their terms of office, shall be
16 appointed by the President of the Senate. Two members of the
17 General Assembly, who shall not be of the same political party and
18 who shall serve during their terms of office, shall be appointed by the
19 Speaker of the General Assembly.

20 Members of the advisory board shall be appointed with the advice
21 and consent of the Senate, and serve a term of three years, except for
22 the initial gubernatorial appointees, six of whom shall serve for two
23 years and six of whom shall serve for four years. Each member shall
24 serve for the term of appointment and until a successor is appointed.
25 A member may be reappointed to the advisory board. A member
26 appointed to fill a vacancy occurring in the membership of the advisory
27 board for any reason other than the expiration of the term shall serve
28 a term of appointment for the unexpired term only. All vacancies shall
29 be filled in the same manner as the original appointments. Any
30 appointed member of the advisory board, except the legislative
31 members, may be removed from the advisory board by the Governor,
32 for cause, after a hearing, and may be suspended by the Governor
33 pending the completion of the hearing. Legislative members may be
34 removed for cause by the leader of their respective houses. Motions
35 and resolutions may be adopted by the advisory board at a board
36 meeting by an affirmative vote of not less than 12 members.

37 Members of the advisory board shall serve without compensation
38 but shall be entitled to reimbursement for actual expenses of serving
39 on the board, to the extent that funds are available for this purpose.

40 The advisory board shall organize as soon as possible after the
41 appointment of its members. The members shall select a chair from
42 among their number.

43 (cf: P.L.1997, c.215, s.1).

44

45 4. Section 2 of P.L.1997, c.215 (C.30:4-123.47b.) is amended to
46 read as follows:

1 2. It shall be the duty of the advisory board to review and comment
2 on supervision issues, the development and implementation of drug
3 and alcohol treatment programs for parolees, and any other issues as
4 requested by the [Commissioner of Corrections] State Parole Board,
5 taking into consideration all relevant research [conducted by the
6 Bureau of Parole]. The advisory board shall sponsor conferences
7 with criminal justice administrators and community members, including
8 treatment providers, in order to educate all interested parties in the
9 importance of relapse prevention and treatment for specialized cases,
10 and to address issues such as lowering costs, developing protocols for
11 confidentiality, identifying the type and amount of treatment that
12 should be available, and promoting community involvement in the
13 reintegration process. The advisory board may make
14 recommendations to the Commissioner of Corrections, the Chairman
15 of the State Parole Board, the Legislature and the Governor in these
16 matters.

17 The advisory board shall meet at least semiannually and may hold
18 hearings at any place or places it shall designate during the sessions or
19 recesses of the Legislature. The [Bureau of Parole] State Parole
20 Board shall have primary responsibility for providing staff services and
21 other necessary support to the board. The advisory board may also
22 request the assistance and services of the employees of any State,
23 county or municipal department, board, bureau, commission, task
24 force or agency as it may require and as may be available to it for its
25 purposes. The advisory board may, within the limits of funds
26 appropriated or otherwise made available to it for its purposes, employ
27 stenographic and clerical assistants and incur travel and miscellaneous
28 expenses necessary for the performance of its duties.
29 (cf: P.L.1997, c.215, s.2).

30
31 5. Section 4 of P.L.1979, c.441 (C.30:4-123.48) is amended to
32 read as follows:

33 4. a. All policies and determinations of the Parole Board shall be
34 made by the majority vote of the members.

35 b. Except where otherwise noted, parole determinations on
36 individual cases pursuant to this act shall be made by the majority vote
37 of a quorum of the appropriate board panel established pursuant to this
38 section.

39 c. The chairman of the board shall be the chief executive officer of
40 the board and, after consulting with the board, shall be responsible for
41 designating the time and place of all board meetings, for appointing the
42 board's employees, for organizing, controlling and directing the work
43 of the board and its employees, and for preparation and justification of
44 the board's budget. The nonsecretarial professional and supervisory
45 employees of the board such as, but not limited to, hearing officers,
46 shall serve at the pleasure of the chairman and shall not be subject to

1 the provisions of Title ²[11] 11A² of the ²[Revised] New Jersey²
2 Statutes.[Nothing contained herein shall be deemed to affect the
3 employees of the Department of Corrections, such as parole officers
4 assigned to supervise parolees] Parole officers assigned to supervise
5 ²adult² parolees and all supervisory titles associated with the
6 supervision of ²adult² parolees in the parole officer series shall be
7 classified employees subject to the provisions of Title ²[11] 11A² of
8 the ²[Revised] New Jersey² Statutes. Parole officers assigned to
9 supervise ²adult² parolees and all supervisory titles associated with the
10 supervision of ²adult² parolees in the parole officer job classification
11 series shall be organizationally assigned to the State Parole Board with
12 a ¹[designee promoted through the ranks of the parole officer job
13 classification series to act as director of parole supervision] sworn
14 member of the Division of Parole appointed to act as director of parole
15 supervision¹. The director of parole supervision shall report directly
16 to the Chairman of the State Parole Board ²or to such person as the
17 chairman may designate².

18 d. The board shall promulgate such reasonable rules and
19 regulations, consistent with this act, as may be necessary for the
20 proper discharge of its responsibilities. The chairman shall file such
21 rules and regulations with the Secretary of State. The provisions of
22 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
23 seq.) shall apply to the promulgation of rules and regulations
24 concerning policy and administration, but not to other actions taken
25 under this act, such as parole hearings, parole revocation hearings and
26 review of parole cases. In determination of its rules and regulations
27 concerning policy and administration, the board shall consult the
28 Governor, the Commissioner of Corrections and the Juvenile Justice
29 Commission established pursuant to section 2 of P.L.1995, c.284
30 (C.52:17B-170).

31 e. The board, in conjunction with the Department of Corrections
32 and the Juvenile Justice Commission, shall develop a uniform
33 information system in order to closely monitor the parole process.
34 Such system shall include participation in the Uniform Parole Reports
35 of the National Council on Crime and Delinquency.

36 f. The board shall transmit a report of its work for the preceding
37 fiscal year, including information on the causes and extent of parole
38 recidivism, to the Governor, the Legislature and the Juvenile Justice
39 Commission annually.

40 g. The board shall give public notice prior to considering any adult
41 inmate for release.

42 h. The board shall give notice to the appropriate prosecutor's office
43 and to the committing court prior to the initial consideration of any
44 juvenile inmate for release.

45 (cf: P.L.1995, c.280, s.35)

1 6. Section 3 of P.L.1997, c.117 (C.30:4-123.51b.) is amended to
2 read as follows:

3 3. a. A person who has been sentenced to a term of parole
4 supervision and is on release status in the community pursuant to
5 section 2 of P.L.1997, c.117 (C.2C:43-7.2) shall, during the term of
6 parole supervision, remain on release status in the community, in the
7 legal custody of the Commissioner of the Department of Corrections,
8 and shall be supervised by the [Bureau of Parole of the Department
9 of Corrections] parole officers in the State Parole Board as if on
10 parole, and shall be subject to the provisions and conditions set by the
11 appropriate board panel. The appropriate board panel shall have the
12 authority, in accordance with the procedures and standards set forth
13 in sections 15 through 21 of P.L.1979, c.441 (C.30:4-123.59 through
14 30:4-123.65), to revoke the person's release status and return the
15 person to custody for the remainder of the term or until it is
16 determined, in accordance with regulations adopted by the board, that
17 the person is again eligible for release consideration pursuant to
18 section 9 of P.L.1979, c.441 (C.30:4-123.53).

19 b. The Parole Board shall promulgate rules and regulations
20 necessary to carry out the purposes of this act pursuant to the
21 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
22 seq.).
23 (cf: P.L.1997, c.117, s.3).

24
25 7. Section 1 of P.L.1997, c.214 (C.30:4-123.51c) is amended to
26 read as follows:

27 1. a. (1) For the purpose of this section, "terminal condition,
28 disease or syndrome" means a prognosis by the licensed physicians
29 designated by the Commissioner of Corrections pursuant to subsection
30 b. of this section that an inmate has six months or less to live.

31 (2) Except as otherwise provided in paragraph (3) of this
32 subsection, the appropriate board panel may release on medical parole
33 any inmate serving any sentence of imprisonment who has been
34 diagnosed pursuant to subsection b. of this section as suffering from
35 a terminal condition, disease or syndrome and is found by the
36 appropriate board panel to be so debilitated or incapacitated by the
37 terminal condition, disease or syndrome as to be permanently
38 physically incapable of committing a crime if released on parole.
39 Notwithstanding any provision of P.L.1979, c.441 (C.30:4-123.45 et
40 seq.) to the contrary, the appropriate board panel may release any such
41 inmate at any time during the term of the sentence. An inmate placed
42 on parole pursuant to this section shall be subject to custody,
43 supervision and conditions as provided in section 15 of P.L.1979,
44 c.441 [(C.30:3-123.59)] (C.30:4-123.59) and shall be subject to
45 sanctions for a violation of a condition of parole as provided in
46 sections 16 through 21 of P.L.1979, c.441 (C.30:4-123.60 through

1 30:4-123.65).

2 (3) No inmate serving any sentence for a violation of
3 N.J.S.2C:11-3; N.J.S.2C:11-4; N.J.S.2C:13-1; subsection a. of
4 N.J.S.2C:14-2; N.J.S.2C:15-1 in which the inmate, while in the course
5 of committing the theft, attempted to kill another, or purposely
6 inflicted or attempted to inflict serious bodily injury, or was armed
7 with or used or threatened the immediate use of a deadly weapon;
8 subsection a. of N.J.S.2C:17-1; or N.J.S.2C:24-4 or an attempt to
9 commit any of these offenses shall be eligible for the medical parole
10 authorized under paragraph (2) of this section.

11 b. A medical diagnosis that an inmate is suffering from a terminal
12 condition, disease or syndrome shall be made by two licensed
13 physicians designated by the Commissioner of Corrections. The
14 diagnosis shall include, but not be limited to:

15 (1) a description of the terminal condition, disease or syndrome;

16 (2) a prognosis concerning the likelihood of recovery from the
17 terminal condition, disease or syndrome;

18 (3) a description of the inmate's physical incapacity; and

19 (4) a description of the type of ongoing treatment that would be
20 required if the inmate were released on medical parole.

21 c. A request for a medical diagnosis to determine whether an
22 inmate is eligible for a medical parole under this section may be
23 submitted to the appropriate board panel by the Commissioner of
24 Corrections, the administrator or superintendent of a correctional
25 facility; the inmate; a member of the inmate's family or the inmate's
26 attorney. The request shall be submitted in a manner and form
27 prescribed by the board.

28 d. At least five working days prior to commencing its review of a
29 request for a medical parole, the appropriate board panel shall notify
30 the appropriate sentencing court; county prosecutor or, if the matter
31 was prosecuted by the Attorney General, the Attorney General; and
32 any victim or member of the family of a victim entitled to notice
33 relating to a parole or the consideration of a parole under the
34 provisions of P.L.1979, c.441 (C.30:4-123.45 et seq.). The notice
35 shall be given in the manner prescribed by the board and shall contain
36 all such information and documentation relating to the medical
37 diagnosis prepared pursuant to subsection b. of this section as the
38 board shall deem appropriate and necessary.

39 Upon receipt of the notice, the sentencing court; county prosecutor
40 or Attorney General, as the case may be; the victim or member of the
41 family of the victim, as the case may be, shall have 10 working days
42 to review the notice and submit comments to the appropriate board
43 panel. If a recipient of the notice does not submit comments within
44 that 10-day period following the receipt of the notice, the panel may
45 presume that the recipient does not wish to submit comments and
46 proceed with its consideration of the request for medical parole. Any

1 comments provided by a recipient shall be delivered to the appropriate
2 board panel in the same manner or by the same method as notice was
3 given by the panel to that recipient.

4 The information contained in any notice given by a panel pursuant
5 to this subsection and the contents of any comments submitted by a
6 recipient in response thereto shall be confidential and shall not be
7 disclosed to any person who is not authorized to receive or review that
8 information or those comments.

9 Notice given under the provisions of this subsection shall be in lieu
10 of any other notice of parole consideration required under P.L.1979,
11 c.441 (C.30:4-123.45 et seq.).

12 Nothing in this subsection shall be construed to impair any party's
13 right to be heard pursuant to P.L.1979, c.441 (C.30:4-123.45 et seq.).

14 e. The appropriate board panel shall conduct its review of a request
15 for medical parole as expeditiously as possible.

16 The appropriate board panel shall provide written notice of its
17 decision to the sentencing court; the county prosecutor or Attorney
18 General, as the case may be; and any victim or member of a victim's
19 family given notice pursuant to subsection d. of this section.

20 f. Whenever an inmate is granted medical parole pursuant to this
21 section, the appropriate board shall require, as a condition precedent
22 to release, that the inmate's release plan include:

23 (1) identification of a community sponsor;

24 (2) verification of the availability of appropriate medical services
25 sufficient to meet the treatment requirements identified pursuant to
26 paragraph (4) of subsection b. of this section; and

27 (3) verification of appropriate housing which may include, but need
28 not be limited to, a hospital, hospice, nursing home facility or other
29 housing accommodation suitable to the inmate's medical condition,
30 disease or syndrome.

31 g. In addition to any conditions imposed pursuant to section 15 of
32 P.L.1979, c.441 (C.30:4-123.59), as a condition of release on medical
33 parole, the appropriate board panel may require an inmate to submit
34 to periodic medical diagnoses by a licensed physician.

35 h. If, after review of a medical diagnosis required under the
36 provisions of subsection g. of this section, the appropriate board panel
37 determines that a parolee released on medical parole is no longer so
38 debilitated or incapacitated by a terminal condition, disease or
39 syndrome as to be physically incapable of committing a crime, the
40 parolee shall be returned to confinement in an appropriate facility
41 designated by the Commissioner of Corrections.

42 A decision to return the parolee to confinement pursuant to this
43 subsection shall be rendered only after a hearing by the appropriate
44 board panel or by a hearing officer designated by the chairman of the
45 board. Nothing in this subsection shall be construed to limit the
46 authority of the board, an appropriate board panel or [any] parole
47 officer of the State Parole Board to address a violation of a condition

1 of parole pursuant to sections 16 through 21 of P.L.1979, c.441
2 (C.30:4-123.60 through 30:4-123.65).

3 i. The denial of a request for medical parole or the return of a
4 parolee to confinement under the provisions of subsection h. of this
5 section shall not preclude that inmate from being considered for parole
6 pursuant to subsection a. of section 7 of P.L.1979, c.441
7 (C.30:4-123.51).

8 (cf: P.L.1997, c.214, s.1).

9

10 8. Section 1 of P.L.1994, c.135 (C.30:4-123.53a) is amended to
11 read as follows:

12 1. a. As used in this act: "Prosecutor" means the county
13 prosecutor of the county in which the defendant was convicted unless
14 the matter was prosecuted by the Attorney General, in which case
15 "prosecutor" means the Attorney General.

16 "Office of Victim Witness Advocacy" means the Office of Victim
17 Witness Advocacy of the county in which the defendant was
18 convicted.

19 b. Notwithstanding any other provision of law to the contrary, the
20 [Department of Corrections] State ²[Parole Board]² shall provide
21 written notice to the prosecutor of the anticipated release from
22 incarceration in a county or State penal institution or the Adult
23 Diagnostic and Treatment Center of a person convicted of murder;
24 manslaughter; aggravated sexual assault; sexual assault; aggravated
25 assault; aggravated criminal sexual contact; kidnaping pursuant to
26 paragraph (2) of subsection c. of N.J.S.2C:13-1; endangering the
27 welfare of a child by engaging in sexual conduct which would impair
28 or debauch the morals of the child pursuant to subsection a. of
29 N.J.S.2C:24-4; endangering the welfare of a child pursuant to
30 paragraph (4) of subsection b. of N.J.S.2C:24-4; luring or enticing
31 pursuant to section 1 of P.L.1993, c.291 (C.2C:13-6); any other
32 offense involving serious bodily injury or an attempt to commit any of
33 the aforementioned offenses. ²In cases involving a release on parole,
34 the State Parole Board shall provide the notice required by this
35 subsection. In all other cases, including but not limited to release
36 upon expiration of sentence or release from incarceration due to a
37 change in sentence, the Department of Corrections shall provide the
38 notice required by this subsection.²

39 c. Notwithstanding any other provision of law to the contrary, the
40 Juvenile Justice Commission established pursuant to section 2 of
41 P.L.1995, c.284 (C.52:17B-170) shall provide written notice to the
42 prosecutor of the anticipated release from incarceration of a juvenile
43 adjudicated delinquent on the basis of an offense which, if committed
44 by an adult, would constitute murder; manslaughter; aggravated sexual
45 assault; sexual assault; aggravated assault; aggravated criminal sexual
46 contact; kidnaping pursuant to paragraph (2) of subsection c. of

1 N.J.S.2C:13-1; endangering the welfare of a child by engaging in
2 sexual conduct which would impair or debauch the morals of the child
3 pursuant to subsection a. of N.J.S.2C:24-4; endangering the welfare
4 of a child pursuant to paragraph (4) of subsection b. of N.J.S.2C:24-4;
5 luring or enticing pursuant to section 1 of P.L.1993, c.291
6 (C.2C:13-6); any other offense involving serious bodily injury or an
7 attempt to commit any of the aforementioned offenses.

8 d. If available, the notice shall be provided to the prosecutor 90
9 days before the inmate's anticipated release; provided however, the
10 notice shall be provided at least 30 days before release. The notice
11 shall include the person's name, identifying factors, offense history,
12 and anticipated future residence. The prosecutor shall notify the
13 Office of Victim and Witness Advocacy and that office shall use any
14 reasonable means available to them to notify the victim of the
15 anticipated release unless the victim has requested not to be notified.

16 e. Upon receipt of notice, the prosecutor shall provide notice to the
17 law enforcement agency responsible for the municipality where the
18 inmate will reside, the municipality in which any victim resides, and
19 such other State and local law enforcement agencies as appropriate for
20 public safety.

21 (cf: P.L.1995, c.280, s.37)

22

23 ²⁹. Section 3 of P.L.1994, c.131 (C.30:4-6.1) is amended to read
24 as follows:

25 3. a. The chief executive officer of the institution in which an
26 inmate is confined shall notify the prosecutor of the release of an
27 inmate, unless the inmate is released on parole, in which case the State
28 Parole Board shall notify the prosecutor of the release. The
29 notification shall occur as follows:

30 (1) Written notification shall be provided 90 days before the
31 inmate's anticipated release whenever possible, but in no event fewer
32 than 30 days before release if such release is due to the expiration of
33 the inmate's maximum term or is authorized by the State Parole Board
34 or order of the Governor upon commutation of a sentence of
35 incarceration;

36 (2) Immediate telephone notification shall be provided whenever
37 possible, followed by written notification within 48 hours, of pre-trial
38 release, escape from custody or return to custody following an escape
39 of a defendant detained or incarcerated in a county or State penal
40 institution, including the Adult Diagnostic and Treatment Center; and

41 (3) Advance written notification shall be provided whenever
42 possible of any other release of an inmate from custody, including
43 placement in an Intensive Supervision Program or other alternative
44 disposition. If advance notification is not provided, notification shall
45 be provided within 48 hours following release. All notice provided
46 pursuant to this section shall include the inmate's name, identifying

1 information, and anticipated residence.²
2 (cf: P.L.1994, c.131, s.3)

3
4 ²[9.] 10.² Section 15 of P.L.1979, c.441 (C.30:4-123.59) is
5 amended to read as follows:

6 15. a. Each adult parolee shall at all times remain in the legal
7 custody of the Commissioner of Corrections and under the supervision
8 of the State Parole Board and each juvenile parolee shall at all times
9 remain in the legal custody of the Juvenile Justice Commission
10 established pursuant to section 2 of P.L.1995, c.284 (C.52:17B-170)
11 ²[and under the supervision of the State Parole Board]², except that
12 the Commissioner of Corrections or the Executive Director of the
13 Juvenile Justice Commission, after providing notice to the Attorney
14 General, may consent to the supervision of a parolee by the federal
15 government pursuant to the Witness Security Reform Act,
16 Pub.L.98-473 (18 U.S.C. s.3251 et seq.). ²[A] An adult² parolee,
17 except those under the Witness Security Reform Act, shall remain
18 under the supervision of the [Bureau of Parole] State Parole Board
19 and in the legal custody of the Department of Corrections ²[or], and
20 a juvenile parolee, except those under the Witness Security Reform
21 Act, shall remain under the supervision of² the Juvenile Justice
22 Commission, as appropriate, in accordance with the policies and rules
23 of the board.

24 b. Each parolee shall agree, as evidenced by his signature to abide
25 by specific conditions of parole established by the appropriate board
26 panel which shall be enumerated in writing in a certificate of parole
27 and shall be given to the parolee upon release. Such conditions shall
28 include, among other things, a requirement that the parolee conduct
29 himself in society in compliance with all laws and refrain from
30 committing any crime, a requirement that the parolee will not own or
31 possess any firearm as defined in subsection f. of N.J.S.2C:39-1 or any
32 other weapon enumerated in subsection r. of N.J.S.2C:39-1, a
33 requirement that the parolee refrain from the use, possession or
34 distribution of a controlled dangerous substance, controlled substance
35 analog or imitation controlled dangerous substance as defined in
36 N.J.S.2C:35-2 and N.J.S.2C:35-11, a requirement that the parolee
37 obtain permission from his parole officer for any change in his
38 residence, and a requirement that the parolee report at reasonable
39 intervals to an assigned parole officer. In addition, based on prior
40 history of the parolee or information provided by a victim or a member
41 of the family of a murder victim, the member or board panel certifying
42 parole release pursuant to section 11 of P.L.1979, c.441
43 (C.30:4-123.55) may impose any other specific conditions of parole
44 deemed reasonable in order to reduce the likelihood of recurrence of
45 criminal or delinquent behavior. Such special conditions may include,
46 among other things, a requirement that the parolee make full or partial

1 restitution, the amount of which restitution shall be set by the
2 sentencing court upon request of the board. In addition, the member
3 or board panel certifying parole release may, giving due regard to a
4 victim's request, impose a special condition that the parolee have no
5 contact with the victim, which special condition may include, but need
6 not be limited to, restraining the parolee from entering the victim's
7 residence, place of employment, business or school, and from
8 harassing or stalking the victim or victim's relatives in any way.

9 c. The appropriate board panel may in writing relieve a parolee of
10 any parole conditions, and may permit a parolee to reside outside the
11 State pursuant to the provisions of the Uniform Act for Out-of-State
12 Parolee Supervision (N.J.S.2A:168-14 et seq.), the Interstate Compact
13 on Juveniles, P.L.1955, c.55 (C.9:23-1 to 9:23-4), and, with the
14 consent of the Commissioner of the Department of Corrections or the
15 Executive Director of the Juvenile Justice Commission after providing
16 notice to the Attorney General, the federal Witness Security Reform
17 Act, if satisfied that such change will not result in a substantial
18 likelihood that the parolee will commit an offense which would be a
19 crime under the laws of this State. The appropriate board panel may
20 revoke such permission, except in the case of a parolee under the
21 Witness Security Reform Act, or reinstate relieved parole conditions
22 for any period of time during which a parolee is under its jurisdiction.

23 d. The appropriate board panel may parole an inmate to any
24 residential facility funded in whole or in part by the State if the inmate
25 would not otherwise be released pursuant to section 9 of P.L.1979,
26 c.441 (C.30:4-123.53) without such placement. But if the residential
27 facility provides treatment for mental illness or mental retardation, the
28 board panel only may parole the inmate to the facility pursuant to the
29 laws and admissions policies that otherwise govern the admission of
30 persons to that facility, and the facility shall have the authority to
31 discharge the inmate according to the laws and policies that otherwise
32 govern the discharge of persons from the facility, on 10 days' prior
33 notice to the board panel. The board panel shall acknowledge receipt
34 of this notice in writing prior to the discharge. Upon receipt of the
35 notice the board panel shall resume jurisdiction over the inmate.

36 e. ~~【The assigned parole officer】~~ Parole officers shall provide
37 assistance to the parolee in obtaining employment, education or
38 vocational training or in meeting other obligations to assure the
39 parolees compliance with meeting legal requirements related to sex
40 offender notification, address changes and participation in
41 rehabilitation programs as directed by the assigned parole officer.

42 f. The board panel on juvenile commitments and the assigned
43 parole officer shall insure that the least restrictive available alternative
44 is used for any juvenile parolee.

45 g. If the board has granted parole to any inmate from a State
46 correctional facility or juvenile facility and the court has imposed a fine

1 on such inmate, the appropriate board panel shall release such inmate
2 on condition that the parolee make specified fine payments to the
3 ²[Bureau of] State² Parole ²Board² or the Juvenile Justice
4 Commission. For violation of such conditions, or for violation of a
5 special condition requiring restitution, parole may be revoked only for
6 refusal or failure to make a good faith effort to make such payment.

7 h. Upon collection of the fine the same shall be paid over by the
8 Department of Corrections or by the Juvenile Justice Commission to
9 the State Treasury.

10 (cf: P.L.1997, c.218).

11

12 ²[10.] 11.² Section 16 of P.L.1979, c.441 (C.30:4-123.60) is
13 amended to read as follows:

14 16. a. Any parolee who violates a condition of parole may be
15 subject to an order pursuant to section 17 of P.L.1979, c.441
16 (C.30:4-123.61) providing for one or more of the following: (1) That
17 he be required to conform to one or more additional conditions of
18 parole; (2) That he forfeit all or a part of commutation time credits
19 granted pursuant to R.S.30:4-140.

20 b. Any parolee who has seriously or persistently violated the
21 conditions of his parole, may have his parole revoked and may be
22 returned to custody pursuant to sections 18 and 19 of P.L.1979, c.441
23 (C.30:4-123.62 and 30:4-123.63). The board shall be notified
24 immediately upon the arrest or indictment of a parolee or upon the
25 filing of charges that the parolee committed an act which, if committed
26 by an adult, would constitute a crime. The board shall not revoke
27 parole on the basis of new charges which have not resulted in a
28 disposition at the trial level except that upon application by the
29 prosecuting authority, the Juvenile Justice Commission established
30 pursuant to section 2 of P.L.1995, c.284 (C.52:17B-170) or the
31 ²[Chief] Director² of the [Bureau] State Parole Board's Division² of
32 Parole, the chairman of the board or his designee may at any time
33 detain the parolee and commence revocation proceedings pursuant to
34 sections 18 and 19 of P.L.1979, c.441 (C.30:4-123.62 and
35 30:4-123.63) when the chairman determines that the new charges
36 against the parolee are of a serious nature and it appears that the
37 parolee otherwise poses a danger to the public safety. In such cases,
38 a parolee shall be informed that, if he testifies at the revocation
39 proceedings, his testimony and the evidence derived there from shall
40 not be used against him in a subsequent criminal prosecution or
41 delinquency adjudication.

42 c. Any parolee who is convicted of a crime or adjudicated
43 delinquent for an act which, if committed by an adult, would constitute
44 a crime, committed while on parole shall have his parole revoked and
45 shall be returned to custody unless the parolee demonstrates, by clear
46 and convincing evidence at a hearing pursuant to section 19 of

1 P.L.1979, c.441 (C.30:4-123.63), that good cause exists why he
2 should not be returned to confinement.

3 (cf: P.L.1995, c.280, s.40)

4

5 ²[11.] 12.² Section 18 of P.L.1979, c.441 (C.30:4-123.62) is
6 amended to read as follows:

7 18. a. (1) If a parole officer assigned to supervise a parolee has
8 probable cause to believe that the parolee has violated a condition of
9 his parole, such violation being a basis for return to custody pursuant
10 to subsection b. of section 16 of P.L.1979, c.441 (C.30:4-123.60), a
11 designated representative of the chairman of the board may issue a
12 warrant for the arrest of the parolee if evidence indicates that the
13 parolee may not appear at the preliminary hearing or if the parolee
14 poses a danger to the public safety. With the parole warrant, a law
15 enforcement officer may apprehend the delinquent parolee.

16 (2) If a parole officer assigned to supervise a parolee has probable
17 cause to believe that the parolee has committed a crime, has
18 committed an act or is about to commit an act which, if committed by
19 an adult, would constitute a crime, is about to commit a crime or is
20 about to flee the jurisdiction, which violation is a basis for return to
21 custody pursuant to subsection b. of section 16 of P.L.1979, c.441
22 (C.30:4-123.60), and the situation is one of immediate emergency that
23 cannot await the issuance of a warrant by a designated representative,
24 the parole officer, by the parole officer's own warrant, may apprehend
25 the parolee and cause his detention in a suitable facility designated by
26 the Department of Corrections or the Juvenile Justice Commission
27 established pursuant to section 2 of P.L.1995, c.284 (C.52:17B-170),
28 as appropriate, or cause the parolee's confinement in an appropriate
29 institution pending return to a facility designated by the Department
30 of Corrections or the Juvenile Justice Commission, as appropriate, to
31 await the conduction of a preliminary hearing. The warrant shall be in
32 the form prescribed, as appropriate, by the Juvenile Justice
33 Commission or by the [Bureau of Parole and approved by the
34 Department of Corrections] State Parole Board and, when signed by
35 the officer in charge of the case, shall be a sufficient instrument and
36 authority to all peace officers to assist in the apprehension of the
37 parolee. It shall also be sufficient authority for detention of the
38 parolee in a suitable facility, to await the conduction of the preliminary
39 hearing. Upon enforcement of the warrant, the appropriate board panel
40 shall be promptly notified. No parolee held in custody on a parole
41 warrant shall be entitled to release on bail.

42 b. A parolee retaken under this section shall within 14 days be
43 granted a preliminary hearing to be conducted by a hearing officer not
44 previously involved in the case, unless the parolee ²[or],² the hearing
45 officer ²,or the parole officer² requests postponement of the
46 preliminary hearing, which may be granted by the appropriate board

1 panel for good cause, but in no event shall such postponement, if
2 requested by the hearing officer ²or the parole officer ², exceed 14
3 days.

4 c. The preliminary hearing shall be for the purpose of determining:

5 (1) Whether there is probable cause to believe that the parolee
6 violated a condition of his parole being the basis for return to custody
7 pursuant to subsection b. of section 16 of P.L.1979, c.441
8 (C.30:4-123.60), and

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

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

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

14 (2) The time, date, place and circumstances of the alleged
15 violation;

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

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

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

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

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

25 f. If the evidence presented at the preliminary hearing does not
26 support a finding of probable cause to believe that the parolee has
27 violated a condition of his parole, such violation being a basis for
28 return to custody pursuant to subsection b. of section 16 of P.L.1979,
29 c.441 (C.30:4-123.60), or if it is otherwise determined that revocation
30 is not desirable, the hearing officer may, in accordance with the
31 provisions of subsection a. of section 16 of P.L.1979, c.441
32 (C.30:4-123.60) and section 17 of P.L.1979, c.441 (C.30:4-123.61),
33 issue an order modifying parole and releasing the offender, or
34 continuing parole and releasing the offender.

35 g. If the evidence presented at the preliminary hearing supports a
36 finding of probable cause to believe that the parolee has violated a
37 condition of his parole, the hearing officer shall determine whether the
38 parolee shall be retained in custody or released on specific conditions
39 pending action by the appropriate board panel.

40 h. Conviction of a crime committed while on parole or adjudication
41 of delinquency for an act which, if committed by an adult, would
42 constitute a crime shall be deemed to constitute probable cause to
43 believe that the parolee has violated a condition of parole.

44 (cf: P.L.1995, c.280, s.42).

45

46 ¹[12. (New section) Notwithstanding any other provision of law

1 to the contrary, a person may serve as both the Commissioner of
2 Corrections and the Chairman of the State Parole Board; except that
3 the person shall receive only the salary of the Commissioner of
4 Corrections.]¹

5
6 ¹[13.] ²[12.¹] 13.² Section 3 of P.L.1993, c.246 (C.43:16A-1.4)
7 is amended to read as follows:

8 3. If the Board of Trustees of the Police and Fireman's Retirement
9 System of New Jersey makes a determination, pursuant to section 9 of
10 P.L.1989, c.204 (C.43:16A-1.2), that the parole officers employed by
11 the [Bureau of Parole in the Department of Corrections] State Parole
12 Board are eligible for membership in the Police and Firemen's
13 Retirement System pursuant to section 1 of P.L.1944, c.255
14 (C.43:16A-1), the enrollment of those parole officers shall occur no
15 earlier than one year after the effective date of this section pursuant to
16 P.L.1993, c.246 (C.43:16A-1.4 et al.).
17 (cf: P.L.1993, c.246, s.3).

18
19 ¹[14.] ²[13.¹] 14.² Section 1 of P.L.1968, c.427 (C.2A:154-4) is
20 amended to read as follows:

21 1. All correction officers of the State of New Jersey, parole
22 officers employed by the [Bureau of Parole in the Department of
23 Corrections] State Parole Board and investigators in the Department
24 of Corrections, who have been or who may hereafter be appointed or
25 employed, shall, by virtue of such appointment or employment and in
26 addition to any other power or authority, be empowered to act as
27 officers for the detection, apprehension, arrest and conviction of
28 offenders against the law.
29 (cf: P.L.1993, c.246, s.1).

30
31 ¹[15.] ²[14.¹] 15.² N.J.S.2C:39-6 is amended to read as follows:
32 2C:39-6. a. Provided a person complies with the requirements of
33 subsection j. of this section, N.J.S.2C:39-5 does not apply to:

34 (1) Members of the Armed Forces of the United States or of the
35 National Guard while actually on duty, or while traveling between
36 places of duty and carrying authorized weapons in the manner
37 prescribed by the appropriate military authorities;

38 (2) Federal law enforcement officers, and any other federal officers
39 and employees required to carry firearms in the performance of their
40 official duties;

41 (3) Members of the State Police and, under conditions prescribed
42 by the superintendent, members of the Marine Law Enforcement
43 Bureau of the Division of State Police;

44 (4) A sheriff, undersheriff, sheriff's officer, county prosecutor,
45 assistant prosecutor, prosecutor's detective or investigator, deputy
46 attorney general or State investigator employed by the Division of

1 Criminal Justice of the Department of Law and Public Safety,
2 investigator employed by the State Commission of Investigation,
3 inspector of the Alcoholic Beverage Control Enforcement Bureau of
4 the Division of State Police in the Department of Law and Public
5 Safety authorized to carry such weapons by the Superintendent of
6 State Police, State park ranger, or State conservation officer;

7 (5) A prison or jail warden of any penal institution in this State or
8 his deputies, or an employee of the Department of Corrections
9 engaged in the interstate transportation of convicted offenders, while
10 in the performance of his duties, and when required to possess the
11 weapon by his superior officer, or a correction officer or keeper of a
12 penal institution in this State at all times while in the State of New
13 Jersey, provided he annually passes an examination approved by the
14 superintendent testing his proficiency in the handling of firearms;

15 (6) A civilian employee of the United States Government under the
16 supervision of the commanding officer of any post, camp, station, base
17 or other military or naval installation located in this State who is
18 required, in the performance of his official duties, to carry firearms,
19 and who is authorized to carry such firearms by said commanding
20 officer, while in the actual performance of his official duties;

21 (7) (a) A regularly employed member, including a detective, of the
22 police department of any county or municipality, or of any State,
23 interstate, municipal or county park police force or boulevard police
24 force, at all times while in the State of New Jersey;

25 (b) A special law enforcement officer authorized to carry a weapon
26 as provided in subsection b. of section 7 of P.L.1985, c.439
27 (C.40A:14-146.14);

28 (c) An airport security officer or a special law enforcement officer
29 appointed by the governing body of any county or municipality, except
30 as provided in subsection b. of this section, or by the commission,
31 board or other body having control of a county park or airport or
32 boulevard police force, while engaged in the actual performance of his
33 official duties and when specifically authorized by the governing body
34 to carry weapons;

35 (8) A full-time, paid member of a paid or part-paid fire department
36 or force of any municipality who is assigned full-time or part-time to
37 an arson investigation unit created pursuant to section 1 of P.L.1981,
38 c.409 (C.40A:14-7.1) or to the county arson investigation unit in the
39 county prosecutor's office, while either engaged in the actual
40 performance of arson investigation duties or while actually on call to
41 perform arson investigation duties and when specifically authorized by
42 the governing body or the county prosecutor, as the case may be, to
43 carry weapons. Prior to being permitted to carry a firearm, such a
44 member shall take and successfully complete a firearms training course
45 administered by the Police Training Commission pursuant to P.L.1961,
46 c.56 (C.52:17B-66 et seq.), and shall annually qualify in the use of a

1 revolver or similar weapon prior to being permitted to carry a firearm;

2 (9) A juvenile corrections officer in the employment of the Juvenile
3 Justice Commission established pursuant to section 2 of P.L.1995,
4 c.284 (C.52:17B-170) subject to the regulations promulgated by the
5 commission.

6 b. Subsections a., b. and c. of N.J.S.2C:39-5 do not apply to:

7 (1) A law enforcement officer employed by a governmental agency
8 outside of the State of New Jersey while actually engaged in his
9 official duties, provided, however, that he has first notified the
10 superintendent or the chief law enforcement officer of the municipality
11 or the prosecutor of the county in which he is engaged; or

12 (2) A licensed dealer in firearms and his registered employees
13 during the course of their normal business while traveling to and from
14 their place of business and other places for the purpose of
15 demonstration, exhibition or delivery in connection with a sale,
16 provided, however, that the weapon is carried in the manner specified
17 in subsection g. of this section.

18 c. Provided a person complies with the requirements of subsection
19 j. of this section, subsections b. and c. of N.J.S.2C:39-5 do not apply
20 to:

21 (1) A special agent of the Division of Taxation who has passed an
22 examination in an approved police training program testing proficiency
23 in the handling of any firearm which he may be required to carry, while
24 in the actual performance of his official duties and while going to or
25 from his place of duty, or any other police officer, while in the actual
26 performance of his official duties;

27 (2) A State deputy conservation officer or a full-time employee of
28 the Division of Parks and Forestry having the power of arrest and
29 authorized to carry weapons, while in the actual performance of his
30 official duties;

31 (3) (Deleted by amendment, P.L.1986, c.150.)

32 (4) A court attendant serving as such under appointment by the
33 sheriff of the county or by the judge of any municipal court or other
34 court of this State, while in the actual performance of his official
35 duties;

36 (5) A guard in the employ of any railway express company,
37 banking or building and loan or savings and loan institution of this
38 State, while in the actual performance of his official duties;

39 (6) A member of a legally recognized military organization while
40 actually under orders or while going to or from the prescribed place
41 of meeting and carrying the weapons prescribed for drill, exercise or
42 parade;

43 (7) An officer of the Society for the Prevention of Cruelty to
44 Animals, while in the actual performance of his duties;

45 (8) An employee of a public utilities corporation actually engaged
46 in the transportation of explosives;

1 (9) A railway policeman, except a transit police officer of the New
2 Jersey Transit Police Department, at all times while in the State of
3 New Jersey, provided that he has passed an approved police academy
4 training program consisting of at least 280 hours. The training
5 program shall include, but need not be limited to, the handling of
6 firearms, community relations, and juvenile relations;

7 (10) A campus police officer appointed under P.L.1970, c.211
8 (C.18A:6-4.2 et seq.) at all times. Prior to being permitted to carry a
9 firearm, a campus police officer shall take and successfully complete
10 a firearms training course administered by the Police Training
11 Commission, pursuant to P.L.1961, c.56 (C.52:17B-66 et seq.), and
12 shall annually qualify in the use of a revolver or similar weapon prior
13 to being permitted to carry a firearm;

14 (11) A person who has not been convicted of a crime under the
15 laws of this State or under the laws of another state or the United
16 States, and who is employed as a full-time security guard for a nuclear
17 power plant under the license of the Nuclear Regulatory Commission,
18 while in the actual performance of his official duties;

19 (12) A transit police officer of the New Jersey Transit Police
20 Department, at all times while in the State of New Jersey, provided the
21 officer has satisfied the training requirements of the Police Training
22 Commission, pursuant to subsection c. of section 2 of P.L.1989, c.291
23 (C.27:25-15.1);

24 (13) A parole officer employed by the [Bureau of Parole in the
25 Department of Corrections] State Parole Board at all times. Prior to
26 being permitted to carry a firearm, a parole officer shall take and
27 successfully complete a basic course for regular police officer training
28 administered by the Police Training Commission, pursuant to
29 P.L.1961, c.56 (C.52:17B-66 et seq.), and shall annually qualify in the
30 use of a revolver or similar weapon prior to being permitted to carry
31 a firearm;

32 (14) A Human Services police officer at all times while in the State
33 of New Jersey, as authorized by the Commissioner of Human Services;

34 (15) A person or employee of any person who, pursuant to and as
35 required by a contract with a governmental entity, supervises or
36 transports persons charged with or convicted of an offense; or

37 (16) A housing authority police officer appointed under P.L.1997,
38 c.210 (C.40A:14-146.19 et al.) at all times while in the State of New
39 Jersey.

40 d. (1) Subsections c. and d. of N.J.S.2C:39-5 do not apply to
41 antique firearms, provided that such antique firearms are unloaded or
42 are being fired for the purposes of exhibition or demonstration at an
43 authorized target range or in such other manner as has been approved
44 in writing by the chief law enforcement officer of the municipality in
45 which the exhibition or demonstration is held, or if not held on
46 property under the control of a particular municipality, the

1 superintendent.

2 (2) Subsection a. of N.J.S.2C:39-3 and subsection d. of
3 N.J.S.2C:39-5 do not apply to an antique cannon that is capable of
4 being fired but that is unloaded and immobile, provided that the
5 antique cannon is possessed by (a) a scholastic institution, a museum,
6 a municipality, a county or the State, or (b) a person who obtained a
7 firearms purchaser identification card as specified in N.J.S.2C:58-3.

8 (3) Subsection a. of N.J.S.2C:39-3 and subsection d. of
9 N.J.S.2C:39-5 do not apply to an unloaded antique cannon that is
10 being transported by one eligible to possess it, in compliance with
11 regulations the superintendent may promulgate, between its permanent
12 location and place of purchase or repair.

13 (4) Subsection a. of N.J.S.2C:39-3 and subsection d. of
14 N.J.S.2C:39-5 do not apply to antique cannons that are being loaded
15 or fired by one eligible to possess an antique cannon, for purposes of
16 exhibition or demonstration at an authorized target range or in the
17 manner as has been approved in writing by the chief law enforcement
18 officer of the municipality in which the exhibition or demonstration is
19 held, or if not held on property under the control of a particular
20 municipality, the superintendent, provided that performer has given at
21 least 30 days' notice to the superintendent.

22 (5) Subsection a. of N.J.S.2C:39-3 and subsection d. of
23 N.J.S.2C:39-5 do not apply to the transportation of unloaded antique
24 cannons directly to or from exhibitions or demonstrations authorized
25 under paragraph (4) of subsection d. of this section, provided that the
26 transportation is in compliance with safety regulations the
27 superintendent may promulgate. Nor do those subsections apply to
28 transportation directly to or from exhibitions or demonstrations
29 authorized under the law of another jurisdiction, provided that the
30 superintendent has been given 30 days' notice and that the
31 transportation is in compliance with safety regulations the
32 superintendent may promulgate.

33 e. Nothing in subsections b., c. and d. of N.J.S.2C:39-5 shall be
34 construed to prevent a person keeping or carrying about his place of
35 business, residence, premises or other land owned or possessed by
36 him, any firearm, or from carrying the same, in the manner specified
37 in subsection g. of this section, from any place of purchase to his
38 residence or place of business, between his dwelling and his place of
39 business, between one place of business or residence and another when
40 moving, or between his dwelling or place of business and place where
41 such firearms are repaired, for the purpose of repair. For the purposes
42 of this section, a place of business shall be deemed to be a fixed
43 location.

44 f. Nothing in subsections b., c. and d. of N.J.S.2C:39-5 shall be
45 construed to prevent:

46 (1) A member of any rifle or pistol club organized in accordance

1 with the rules prescribed by the National Board for the Promotion of
2 Rifle Practice, in going to or from a place of target practice, carrying
3 such firearms as are necessary for said target practice, provided that
4 the club has filed a copy of its charter with the superintendent and
5 annually submits a list of its members to the superintendent and
6 provided further that the firearms are carried in the manner specified
7 in subsection g. of this section;

8 (2) A person carrying a firearm or knife in the woods or fields or
9 upon the waters of this State for the purpose of hunting, target
10 practice or fishing, provided that the firearm or knife is legal and
11 appropriate for hunting or fishing purposes in this State and he has in
12 his possession a valid hunting license, or, with respect to fresh water
13 fishing, a valid fishing license;

14 (3) A person transporting any firearm or knife while traveling:

15 (a) Directly to or from any place for the purpose of hunting or
16 fishing, provided the person has in his possession a valid hunting or
17 fishing license; or

18 (b) Directly to or from any target range, or other authorized place
19 for the purpose of practice, match, target, trap or skeet shooting
20 exhibitions, provided in all cases that during the course of the travel
21 all firearms are carried in the manner specified in subsection g. of this
22 section and the person has complied with all the provisions and
23 requirements of Title 23 of the Revised Statutes and any amendments
24 thereto and all rules and regulations promulgated thereunder; or

25 (c) In the case of a firearm, directly to or from any exhibition or
26 display of firearms which is sponsored by any law enforcement agency,
27 any rifle or pistol club, or any firearms collectors club, for the purpose
28 of displaying the firearms to the public or to the members of the
29 organization or club, provided, however, that not less than 30 days
30 prior to the exhibition or display, notice of the exhibition or display
31 shall be given to the Superintendent of the State Police by the
32 sponsoring organization or club, and the sponsor has complied with
33 such reasonable safety regulations as the superintendent may
34 promulgate. Any firearms transported pursuant to this section shall be
35 transported in the manner specified in subsection g. of this section;

36 (4) A person from keeping or carrying about a private or
37 commercial aircraft or any boat, or from transporting to or from such
38 vessel for the purpose of installation or repair a visual distress
39 signalling device approved by the United States Coast Guard.

40 g. All weapons being transported under paragraph (2) of
41 subsection b., subsection e., or paragraph (1) or (3) of subsection f. of
42 this section shall be carried unloaded and contained in a closed and
43 fastened case, gunbox, securely tied package, or locked in the trunk of
44 the automobile in which it is being transported, and in the course of
45 travel shall include only such deviations as are reasonably necessary
46 under the circumstances.

1 h. Nothing in subsection d. of N.J.S.2C:39-5 shall be construed to
2 prevent any employee of a public utility, as defined in R.S.48:2-13,
3 doing business in this State or any United States Postal Service
4 employee, while in the actual performance of duties which specifically
5 require regular and frequent visits to private premises, from
6 possessing, carrying or using any device which projects, releases or
7 emits any substance specified as being noninjurious to canines or other
8 animals by the Commissioner of Health and Senior Services and which
9 immobilizes only on a temporary basis and produces only temporary
10 physical discomfort through being vaporized or otherwise dispensed
11 in the air for the sole purpose of repelling canine or other animal
12 attacks.

13 The device shall be used solely to repel only those canine or other
14 animal attacks when the canines or other animals are not restrained in
15 a fashion sufficient to allow the employee to properly perform his
16 duties.

17 Any device used pursuant to this act shall be selected from a list of
18 products, which consist of active and inert ingredients, permitted by
19 the Commissioner of Health and Senior Services.

20 i. Nothing in N.J.S.2C:39-5 shall be construed to prevent any
21 person who is 18 years of age or older and who has not been convicted
22 of a felony, from possession for the purpose of personal self-defense
23 of one pocket-sized device which contains and releases not more than
24 three-quarters of an ounce of chemical substance not ordinarily
25 capable of lethal use or of inflicting serious bodily injury, but rather,
26 is intended to produce temporary physical discomfort or disability
27 through being vaporized or otherwise dispensed in the air. Any person
28 in possession of any device in violation of this subsection shall be
29 deemed and adjudged to be a disorderly person, and upon conviction
30 thereof, shall be punished by a fine of not less than \$100.00.

31 j. A person shall qualify for an exemption from the provisions of
32 N.J.S.2C:39-5, as specified under subsections a. and c. of this section,
33 if the person has satisfactorily completed a firearms training course
34 approved by the Police Training Commission.

35 Such exempt person shall not possess or carry a firearm until the
36 person has satisfactorily completed a firearms training course and shall
37 annually qualify in the use of a revolver or similar weapon. For
38 purposes of this subsection, a "firearms training course" means a
39 course of instruction in the safe use, maintenance and storage of
40 firearms which is approved by the Police Training Commission. The
41 commission shall approve a firearms training course if the
42 requirements of the course are substantially equivalent to the
43 requirements for firearms training provided by police training courses
44 which are certified under section 6 of P.L.1961, c.56 (C.52:17B-71).
45 A person who is specified in paragraph (1), (2), (3) or (6) of
46 subsection a. of this section shall be exempt from the requirements of

1 this subsection.

2 k. Nothing in subsection d. of N.J.S.2C:39-5 shall be construed to
3 prevent any financial institution, or any duly authorized personnel of
4 the institution, from possessing, carrying or using for the protection of
5 money or property, any device which projects, releases or emits tear
6 gas or other substances intended to produce temporary physical
7 discomfort or temporary identification.

8 l. Nothing in subsection b. of N.J.S.2C:39-5 shall be construed to
9 prevent a law enforcement officer who retired in good standing,
10 including a retirement because of a disability pursuant to section 6 of
11 P.L.1944, c.255 (C.43:16A-6), section 7 of P.L.1944, c.255
12 (C.43:16A-7), section 1 of P.L.1989, c.103 (C.43:16A-6.1) or any
13 substantially similar statute governing the disability retirement of
14 federal law enforcement officers, provided the officer was a regularly
15 employed, full-time law enforcement officer for an aggregate of five
16 or more years prior to his disability retirement and further provided
17 that the disability which constituted the basis for the officer's
18 retirement did not involve a certification that the officer was mentally
19 incapacitated for the performance of his usual law enforcement duties
20 and any other available duty in the department which his employer was
21 willing to assign to him or does not subject that retired officer to any
22 of the disabilities set forth in subsection c. of N.J.S.2C:58-3 which
23 would disqualify the retired officer from possessing or carrying a
24 firearm, who semi-annually qualifies in the use of the handgun he is
25 permitted to carry in accordance with the requirements and procedures
26 established by the Attorney General pursuant to subsection j. of this
27 section and pays the actual costs associated with those semi-annual
28 qualifications, who is less than 70 years of age, and who was regularly
29 employed as a full-time member of the State Police; a full-time
30 member of an interstate police force; a full-time member of a county
31 or municipal police department in this State; a full-time member of a
32 State law enforcement agency; a full-time sheriff, undersheriff or
33 sheriff's officer of a county of this State; a full-time State or county
34 corrections officer; a full-time county park police officer; a full-time
35 county prosecutor's detective or investigator; or a full-time federal law
36 enforcement officer from carrying a handgun in the same manner as
37 law enforcement officers exempted under paragraph (7) of subsection
38 a. of this section under the conditions provided herein:

39 (1) The retired law enforcement officer, within six months after
40 retirement, shall make application in writing to the Superintendent of
41 State Police for approval to carry a handgun for one year. An
42 application for annual renewal shall be submitted in the same manner.

43 (2) Upon receipt of the written application of the retired law
44 enforcement officer, the superintendent shall request a verification of
45 service from the chief law enforcement officer of the organization in
46 which the retired officer was last regularly employed as a full-time law

1 enforcement officer prior to retiring. The verification of service shall
2 include:

- 3 (a) The name and address of the retired officer;
- 4 (b) The date that the retired officer was hired and the date that the
5 officer retired;
- 6 (c) A list of all handguns known to be registered to that officer;
- 7 (d) A statement that, to the reasonable knowledge of the chief law
8 enforcement officer, the retired officer is not subject to any of the
9 restrictions set forth in subsection c. of N.J.S.2C:58-3; and
- 10 (e) A statement that the officer retired in good standing.

11 (3) If the superintendent approves a retired officer's application or
12 reapplication to carry a handgun pursuant to the provisions of this
13 subsection, the superintendent shall notify in writing the chief law
14 enforcement officer of the municipality wherein that retired officer
15 resides. In the event the retired officer resides in a municipality which
16 has no chief law enforcement officer or law enforcement agency, the
17 superintendent shall maintain a record of the approval.

18 (4) The superintendent shall issue to an approved retired officer an
19 identification card permitting the retired officer to carry a handgun
20 pursuant to this subsection. This identification card shall be valid for
21 one year from the date of issuance and shall be valid throughout the
22 State. The identification card shall not be transferable to any other
23 person. The identification card shall be carried at all times on the
24 person of the retired officer while the retired officer is carrying a
25 handgun. The retired officer shall produce the identification card for
26 review on the demand of any law enforcement officer or authority.

27 (5) Any person aggrieved by the denial of the superintendent of
28 approval for a permit to carry a handgun pursuant to this subsection
29 may request a hearing in the Superior Court of New Jersey in the
30 county in which he resides by filing a written request for such a
31 hearing within 30 days of the denial. Copies of the request shall be
32 served upon the superintendent and the county prosecutor. The
33 hearing shall be held within 30 days of the filing of the request, and no
34 formal pleading or filing fee shall be required. Appeals from the
35 determination of such a hearing shall be in accordance with law and
36 the rules governing the courts of this State.

37 (6) A judge of the Superior Court may revoke a retired officer's
38 privilege to carry a handgun pursuant to this subsection for good cause
39 shown on the application of any interested person. A person who
40 becomes subject to any of the disabilities set forth in subsection c. of
41 N.J.S.2C:58-3 shall surrender, as prescribed by the superintendent, his
42 identification card issued under paragraph (4) of this subsection to the
43 chief law enforcement officer of the municipality wherein he resides or
44 the superintendent, and shall be permanently disqualified to carry a
45 handgun under this subsection.

46 (7) The superintendent may charge a reasonable application fee to

1 retired officers to offset any costs associated with administering the
2 application process set forth in this subsection.

3 m. Nothing in subsection d. of N.J.S.2C:39-5 shall be construed to
4 prevent duly authorized personnel of the New Jersey Division of Fish,
5 Game and Wildlife, while in the actual performance of duties, from
6 possessing, transporting or using any device that projects, releases or
7 emits any substance specified as being non-injurious to wildlife by the
8 Director of the Division of Animal Health in the Department of
9 Agriculture, and which may immobilize wildlife and produces only
10 temporary physical discomfort through being vaporized or otherwise
11 dispensed in the air for the purpose of repelling bear or other animal
12 attacks or for the aversive conditioning of wildlife.

13 n. Nothing in subsection b., c., d. or e. of N.J.S.2C:39-5 shall be
14 construed to prevent duly authorized personnel of the New Jersey
15 Division of Fish, Game and Wildlife, while in the actual performance
16 of duties, from possessing, transporting or using hand held pistol-like
17 devices, rifles or shotguns that launch pyrotechnic missiles for the sole
18 purpose of frightening, hazing or aversive conditioning of nuisance or
19 depredating wildlife; from possessing, transporting or using rifles,
20 pistols or similar devices for the sole purpose of chemically
21 immobilizing wild or non-domestic animals; or, provided the duly
22 authorized person complies with the requirements of subsection j. of
23 this section, from possessing, transporting or using rifles or shotguns,
24 upon completion of a Police Training Commission approved training
25 course, in order to dispatch injured or dangerous animals or for
26 non-lethal use for the purpose of frightening, hazing or aversive
27 conditioning of nuisance or depredating wildlife.

28 (cf: P.L.1997, c.393, s.1)

29

30 ¹[16.] ²[15.¹] 16.² Section 2 of P.L.1997, c.117 (C.2C:43-7.2)
31 is amended to read as follows:

32 2. a. A court imposing a sentence of incarceration for a crime of
33 the first or second degree shall fix a minimum term of 85% of the
34 sentence during which the defendant shall not be eligible for parole if
35 the crime is a violent crime as defined in subsection d. of this section.

36 b. The provisions of subsection a. of this section shall not be
37 construed or applied to reduce the time that must be served before
38 eligibility for parole by an inmate sentenced to a mandatory minimum
39 period of incarceration.

40 c. Notwithstanding any other provision of law to the contrary and
41 in addition to any other sentence imposed, a court imposing a
42 minimum period of parole ineligibility of 85 percent of the sentence
43 pursuant to this section shall also¹[, unless the court imposes a
44 sentence of lifetime parole supervision pursuant to P.L. , c.
45 (C.)(now pending before the Legislature as Senate Bill No. 524
46 SCS),]¹ impose a five-year term of parole supervision if the defendant

1 is being sentenced for a crime of the first degree, or a three-year term
2 of parole supervision if the defendant is being sentenced for a crime of
3 the second degree. The term of parole supervision shall commence
4 upon the completion of the sentence of incarceration imposed by the
5 court pursuant to subsection a. of this section unless the defendant is
6 serving a sentence of incarceration for another crime at the time he
7 completes the sentence of incarceration imposed pursuant to
8 subsection a., in which case the term of parole supervision shall
9 commence immediately upon the defendant's release from
10 incarceration. During the term of parole supervision the defendant
11 shall remain in release status in the community in the legal custody of
12 the Commissioner of the Department of Corrections and shall be
13 supervised by the [Bureau of Parole of the Department of
14 Corrections] State Parole Board as if on parole and shall be subject to
15 the provisions and conditions of section 3 of P.L.1997, c.117
16 (C.30:4-123.51b).

17 d. For the purposes of this section, "violent crime" means any
18 crime in which the actor causes death, causes serious bodily injury as
19 defined in subsection b. of N.J.S.2C:11-1, or uses or threatens the
20 immediate use of a deadly weapon. "Violent crime" also includes any
21 aggravated sexual assault or sexual assault in which the actor uses, or
22 threatens the immediate use of, physical force.

23 For the purposes of this section, "deadly weapon" means any
24 firearm or other weapon, device, instrument, material or substance,
25 whether animate or inanimate, which in the manner it is used or is
26 intended to be used, is known to be capable of producing death or
27 serious bodily injury.

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

33 (cf: P.L.1997, c.117, s.1).

34

35 ²17. Section 5 of P.L.1979, c.441 (C.30:4-123.49) is amended to
36 read as follows:

37 5. a. The chairman of the board, after consulting with the board,
38 shall assign any case not otherwise assigned, such as county jail,
39 workhouse, or penitentiary cases, to a special panel composed of any
40 two members or any one member and one [senior] hearing officer as
41 necessary for the efficient functioning of the board.

42 b. Nothing contained in this act shall be deemed to preclude a
43 member of any board panel from exercising all the functions, powers,
44 and duties of a hearing officer upon designation by the chairman;
45 provided, however, that no member so designated shall participate in
46 the disposition of a panel or board review of his initial decision.

1 c. No hearing officer assigned to review adult cases shall be
2 assigned to review juvenile cases pursuant to sections 13 and 19 of
3 P.L.1979, c.441 (C.30:4-123.57 and 30:4-123.63), nor shall any
4 hearing officer assigned to review juvenile cases be assigned to review
5 adult cases.

6 d. Representatives of the board or the chairman designated
7 pursuant to this act may include employees of the board and
8 employees of other agencies such as the Department of Corrections or
9 the Juvenile Justice Commission established pursuant to section 2 of
10 P.L.1995, c.284 (C.52:17B-170), provided that no employee of the
11 Department of Corrections or the Juvenile Justice Commission shall be
12 so designated without the approval of the Commissioner of
13 Corrections or the Executive Director of the Commission. Such
14 representatives shall not participate in the disposition of parole cases.²
15 (cf: P.L.1995, c.280, s.36)

16

17 ²18. Section 8 of P.L.1979, c.441 (C.30:4-123.52) is amended to
18 read as follows:

19 8. a. If the appropriate board panel determines that an adult inmate
20 has seriously or persistently violated specifically defined institutional
21 rules or has engaged in conduct indictable in nature while incarcerated,
22 the inmate's parole eligibility date may be increased pursuant to a
23 schedule developed by the board. In developing such schedule,
24 particular emphasis shall be placed on the severity of the inmate's
25 conduct. The board shall deduct from the scheduled penalty any loss
26 of commutation time imposed by the Department of Corrections
27 pursuant to R.S.30:4-140.

28 b. If the appropriate board panel determines that an adult inmate
29 has made exceptional progress, as evidenced by documented
30 participation and progress in institutional or community educational,
31 training or other programs, the inmate's parole eligibility date may be
32 decreased, except that no parole eligibility date shall be set below the
33 primary parole eligibility date without the consent of the sentencing
34 court, which need not conduct a hearing and in no case shall a parole
35 eligibility date be set below any judicial or statutory mandatory
36 minimum term, including any parole eligibility date set pursuant to
37 section 23 of this act.

38 c. The appropriate board panel shall annually monitor the progress
39 of each adult inmate and provide the inmate with a written statement
40 of any changes in his parole eligibility.

41 d. At any time while an inmate is committed to the custody of the
42 Commissioner of Corrections, the appropriate board panel or the
43 Parole Board may require, as often as it deems necessary, that inmate
44 to undergo an in-depth preparole psychological evaluation conducted
45 by a psychologist [employed by the Parole Board or, where
46 appropriate after consultation with the Department of Corrections, by

1 a psychologist at the Adult Diagnostic and Treatment Center, to
2 provide current and accurate information to assess the inmate's
3 suitability for parole].

4 e. Prior to the parole eligibility date of each adult inmate, an
5 objective risk assessment shall be performed by board staff or by some
6 other appropriate agent of the State. The risk assessment, which shall
7 be in a form prescribed by the board pursuant to rule and regulation,
8 shall consist of both static and dynamic factors which may assist the
9 board panel in determining whether the inmate shall be certified for
10 parole and, if paroled, the level of supervision the parolee may require.
11 In addition to the information otherwise gathered for and incorporated
12 in the pre-parole report, the assessment shall include evaluations of the
13 inmate's ability to function independently, the inmate's educational and
14 employment background, the inmate's family and marital history, and
15 such other information and factors as the board may deem appropriate
16 and necessary.²

17 (cf: P.L.1997, c.217, s.2)

18

19 ¹[17.] ²[16.¹] 19.² This act shall take effect ²[immediately] on
20 the 120th day following enactment².

21

22

23

24

25 Transfers the Bureau of Parole in the Department of Corrections to the
26 State Parole Board.

CHAPTER 79

AN ACT concerning parole and revising various parts of the statutory law.

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

C.30:4-123.47c Division of Parole in State Parole Board, constituted.

1. a. The Bureau of Parole in the Department of Corrections is hereby constituted as the Division of Parole in the State Parole Board, and all functions, powers and duties of the existing Bureau of Parole are hereby transferred to the State Parole Board.

b. All files, books, papers, records, equipment and other property of the Bureau of Parole in the Department of Corrections shall be transferred to the State Parole Board.

c. All appropriations and other moneys available and to become available to the Bureau of Parole in the Department of Corrections, the functions, powers and duties of which have been assigned or transferred herein, or to the Department of Corrections on behalf of the Bureau of Parole, including such funds as are appropriated for the administration of the Bureau of Parole, are hereby transferred to the State Parole Board and shall be available for the objects and purposes for which appropriated, subject to any terms, restrictions, limitations or other requirements imposed by State or federal law.

d. The employees of the Bureau of Parole in the Department of Corrections are hereby transferred to the State Parole Board.

e. Nothing in P.L.2001, c.79 (C.30:4-123.47c et al.) shall be construed to deprive any person of any tenure rights or of any right or protection provided him by Title 11A of the New Jersey Statutes, Civil Service, or under any pension law or retirement system.

f. P.L.2001, c.79 (C.30:4-123.47c et al.) shall not affect actions or proceedings, civil or criminal, brought by or against the Bureau of Parole in the Department of Corrections, the functions, powers and duties of which have been herein assigned or transferred to the State Parole Board.

2. Section 1 of P.L.1979, c. 441 (C.30:4-123.45) is amended to read as follows:

C.30:4-123.45 Short title, definitions relative to parole.

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

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

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

(2) "Juvenile inmate" means any person under commitment as a juvenile delinquent pursuant to section 25 of P.L.1982, c.77 (C.2A:4A-44).

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

(4) "Primary parole eligibility date" means that date established for parole eligibility for adult inmates pursuant to section 7 or 20 of this act.

(5) "Public notice" shall consist of lists including names of all inmates being considered for parole, the county from which he was committed and the crime for which he was incarcerated. At least 30 days prior to parole consideration such lists shall be forwarded to the prosecutor's office of each county, the sentencing court, the office of the Attorney General, any other criminal justice agencies whose information and comment may be relevant, and news organizations.

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

(7) "Commission" means the Juvenile Justice Commission established pursuant to section 2 of P.L.1995, c.284 (C.52:17B-170).

(8) "Parole officer" means, with respect to an adult inmate, an officer assigned by the Chairman of the State Parole Board or his designee and, with respect to a juvenile inmate, a person assigned by the commission.

3. Section 1 of P.L.1997, c.215 (C.30:4-123.47a) is amended to read as follows:

C.30:4-123.47a Parole Advisory Board established.

1. There is hereby established a Parole Advisory Board in, but not of, the State Parole Board. Notwithstanding the allocation of the board within the State Parole Board, the State Parole Board or any employee thereof shall not exercise any control over the Parole Advisory Board. The advisory board shall consist of 23 members. It shall include in its membership the Chairman of the State Parole Board or his designee, who shall serve ex officio; one member representing each of the following organizations and groups, who shall be appointed by the Governor: the Department of Corrections, the Department of Health and Senior Services, the Department of Law and Public Safety, Office of the Governor, the Administrative Office of the Courts, the Victims of Crime Compensation Board, the New Jersey Chapter of the American Correctional Association, the County Prosecutors Association of New Jersey, the Sheriffs' Association of New Jersey, the New Jersey Wardens Association, the New Jersey State Association of Chiefs of Police, the American Parole and Probation Association, Governor's Council on Alcoholism and Drug Abuse, the community at large, treatment providers, victims' rights groups and former inmates who have successfully completed parole. Two members of the Senate, who shall not be of the same political party and who shall serve during their terms of office, shall be appointed by the President of the Senate. Two members of the General Assembly, who shall not be of the same political party and who shall serve during their terms of office, shall be appointed by the Speaker of the General Assembly.

Members of the advisory board shall be appointed with the advice and consent of the Senate, and serve a term of three years, except for the initial gubernatorial appointees, six of whom shall serve for two years and six of whom shall serve for four years. Each member shall serve for the term of appointment and until a successor is appointed. A member may be reappointed to the advisory board. A member appointed to fill a vacancy occurring in the membership of the advisory board for any reason other than the expiration of the term shall serve a term of appointment for the unexpired term only. All vacancies shall be filled in the same manner as the original appointments. Any appointed member of the advisory board, except the legislative members, may be removed from the advisory board by the Governor, for cause, after a hearing, and may be suspended by the Governor pending the completion of the hearing. Legislative members may be removed for cause by the leader of their respective houses. Motions and resolutions may be adopted by the advisory board at a board meeting by an affirmative vote of not less than 12 members.

Members of the advisory board shall serve without compensation but shall be entitled to reimbursement for actual expenses of serving on the board, to the extent that funds are available for this purpose.

The advisory board shall organize as soon as possible after the appointment of its members. The members shall select a chair from among their number.

4. Section 2 of P.L.1997, c.215 (C.30:4-123.47b) is amended to read as follows:

C.30:4-123.47b Duties of advisory board.

2. It shall be the duty of the advisory board to review and comment on supervision issues, the development and implementation of drug and alcohol treatment programs for parolees, and any other issues as requested by the State Parole Board, taking into consideration all relevant research. The advisory board shall sponsor conferences with criminal justice administrators and community members, including treatment providers, in order to educate all interested parties in the importance of relapse prevention and treatment for specialized cases, and to address issues such as lowering costs, developing protocols for confidentiality, identifying the type and amount of treatment that should be available, and promoting community involvement in the reintegration process. The advisory board may make recommendations to the Commissioner of Corrections, the Chairman of the State Parole Board, the Legislature and the Governor in these matters.

The advisory board shall meet at least semiannually and may hold hearings at any place or places it shall designate during the sessions or recesses of the Legislature. The State Parole Board shall have primary responsibility for providing staff services and other necessary support to the board. The advisory board may also request the assistance and services of the employees

of any State, county or municipal department, board, bureau, commission, task force or agency as it may require and as may be available to it for its purposes. The advisory board may, within the limits of funds appropriated or otherwise made available to it for its purposes, employ stenographic and clerical assistants and incur travel and miscellaneous expenses necessary for the performance of its duties.

5. Section 4 of P.L.1979, c.441 (C.30:4-123.48) is amended to read as follows:

C.30:4-123.48 Policies, determinations of parole board.

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

b. Except where otherwise noted, parole determinations on individual cases pursuant to this act shall be made by the majority vote of a quorum of the appropriate board panel established pursuant to this section.

c. The chairman of the board shall be the chief executive officer of the board and, after consulting with the board, shall be responsible for designating the time and place of all board meetings, for appointing the board's employees, for organizing, controlling and directing the work of the board and its employees, and for preparation and justification of the board's budget. The nonsecretarial professional and supervisory employees of the board such as, but not limited to, hearing officers, shall serve at the pleasure of the chairman and shall not be subject to the provisions of Title 11A of the New Jersey Statutes. Parole officers assigned to supervise adult parolees and all supervisory titles associated with the supervision of adult parolees in the parole officer series shall be classified employees subject to the provisions of Title 11A of the New Jersey Statutes. Parole officers assigned to supervise adult parolees and all supervisory titles associated with the supervision of adult parolees in the parole officer job classification series shall be organizationally assigned to the State Parole Board with a sworn member of the Division of Parole appointed to act as director of parole supervision. The director of parole supervision shall report directly to the Chairman of the State Parole Board or to such person as the chairman may designate.

d. The board shall promulgate such reasonable rules and regulations, consistent with this act, as may be necessary for the proper discharge of its responsibilities. The chairman shall file such rules and regulations with the Secretary of State. The provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) shall apply to the promulgation of rules and regulations concerning policy and administration, but not to other actions taken under this act, such as parole hearings, parole revocation hearings and review of parole cases. In determination of its rules and regulations concerning policy and administration, the board shall consult the Governor, the Commissioner of Corrections and the Juvenile Justice Commission established pursuant to section 2 of P.L.1995, c.284 (C.52:17B-170).

e. The board, in conjunction with the Department of Corrections and the Juvenile Justice Commission, shall develop a uniform information system in order to closely monitor the parole process. Such system shall include participation in the Uniform Parole Reports of the National Council on Crime and Delinquency.

f. The board shall transmit a report of its work for the preceding fiscal year, including information on the causes and extent of parole recidivism, to the Governor, the Legislature and the Juvenile Justice Commission annually.

g. The board shall give public notice prior to considering any adult inmate for release.

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

6. Section 3 of P.L.1997, c.117 (C.30:4-123.51b) is amended to read as follows:

C.30:4-123.51b Released status under term of parole supervision; rules, regulations.

3. a. A person who has been sentenced to a term of parole supervision and is on release status in the community pursuant to section 2 of P.L.1997, c.117 (C.2C:43-7.2) shall, during the term of parole supervision, remain on release status in the community, in the legal custody of the

Commissioner of the Department of Corrections, and shall be supervised by the parole officers in the State Parole Board as if on parole, and shall be subject to the provisions and conditions set by the appropriate board panel. The appropriate board panel shall have the authority, in accordance with the procedures and standards set forth in sections 15 through 21 of P.L.1979, c.441 (C.30:4-123.59 through 30:4-123.65), to revoke the person's release status and return the person to custody for the remainder of the term or until it is determined, in accordance with regulations adopted by the board, that the person is again eligible for release consideration pursuant to section 9 of P.L.1979, c.441 (C.30:4-123.53).

b. The Parole Board shall promulgate rules and regulations necessary to carry out the purposes of this act pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

7. Section 1 of P.L.1997, c.214 (C.30:4-123.51c) is amended to read as follows:

C.30:4-123.51c "Terminal condition, disease or syndrome," defined; medical parole conditions.

1. a. (1) For the purpose of this section, "terminal condition, disease or syndrome" means a prognosis by the licensed physicians designated by the Commissioner of Corrections pursuant to subsection b. of this section that an inmate has six months or less to live.

(2) Except as otherwise provided in paragraph (3) of this subsection, the appropriate board panel may release on medical parole any inmate serving any sentence of imprisonment who has been diagnosed pursuant to subsection b. of this section as suffering from a terminal condition, disease or syndrome and is found by the appropriate board panel to be so debilitated or incapacitated by the terminal condition, disease or syndrome as to be permanently physically incapable of committing a crime if released on parole. Notwithstanding any provision of P.L.1979, c.441 (C.30:4-123.45 et seq.) to the contrary, the appropriate board panel may release any such inmate at any time during the term of the sentence. An inmate placed on parole pursuant to this section shall be subject to custody, supervision and conditions as provided in section 15 of P.L.1979, c.441 (C.30:4-123.59) and shall be subject to sanctions for a violation of a condition of parole as provided in sections 16 through 21 of P.L.1979, c.441 (C.30:4-123.60 through 30:4-123.65).

(3) No inmate serving any sentence for a violation of N.J.S.2C:11-3; N.J.S.2C:11-4; N.J.S.2C:13-1; subsection a. of N.J.S.2C:14-2; N.J.S.2C:15-1 in which the inmate, while in the course of committing the theft, attempted to kill another, or purposely inflicted or attempted to inflict serious bodily injury, or was armed with or used or threatened the immediate use of a deadly weapon; subsection a. of N.J.S.2C:17-1; or N.J.S.2C:24-4 or an attempt to commit any of these offenses shall be eligible for the medical parole authorized under paragraph (2) of this section.

b. A medical diagnosis that an inmate is suffering from a terminal condition, disease or syndrome shall be made by two licensed physicians designated by the Commissioner of Corrections. The diagnosis shall include, but not be limited to:

- (1) a description of the terminal condition, disease or syndrome;
- (2) a prognosis concerning the likelihood of recovery from the terminal condition, disease or syndrome;
- (3) a description of the inmate's physical incapacity; and
- (4) a description of the type of ongoing treatment that would be required if the inmate were released on medical parole.

c. A request for a medical diagnosis to determine whether an inmate is eligible for a medical parole under this section may be submitted to the appropriate board panel by the Commissioner of Corrections, the administrator or superintendent of a correctional facility; the inmate; a member of the inmate's family or the inmate's attorney. The request shall be submitted in a manner and form prescribed by the board.

d. At least five working days prior to commencing its review of a request for a medical parole, the appropriate board panel shall notify the appropriate sentencing court; county prosecutor or, if the matter was prosecuted by the Attorney General, the Attorney General; and any victim or member of the family of a victim entitled to notice relating to a parole or the

consideration of a parole under the provisions of P.L.1979, c.441 (C.30:4-123.45 et seq.). The notice shall be given in the manner prescribed by the board and shall contain all such information and documentation relating to the medical diagnosis prepared pursuant to subsection b. of this section as the board shall deem appropriate and necessary.

Upon receipt of the notice, the sentencing court; county prosecutor or Attorney General, as the case may be; the victim or member of the family of the victim, as the case may be, shall have 10 working days to review the notice and submit comments to the appropriate board panel. If a recipient of the notice does not submit comments within that 10-day period following the receipt of the notice, the panel may presume that the recipient does not wish to submit comments and proceed with its consideration of the request for medical parole. Any comments provided by a recipient shall be delivered to the appropriate board panel in the same manner or by the same method as notice was given by the panel to that recipient.

The information contained in any notice given by a panel pursuant to this subsection and the contents of any comments submitted by a recipient in response thereto shall be confidential and shall not be disclosed to any person who is not authorized to receive or review that information or those comments.

Notice given under the provisions of this subsection shall be in lieu of any other notice of parole consideration required under P.L.1979, c.441 (C.30:4-123.45 et seq.).

Nothing in this subsection shall be construed to impair any party's right to be heard pursuant to P.L.1979, c.441 (C.30:4-123.45 et seq.).

e. The appropriate board panel shall conduct its review of a request for medical parole as expeditiously as possible.

The appropriate board panel shall provide written notice of its decision to the sentencing court; the county prosecutor or Attorney General, as the case may be; and any victim or member of a victim's family given notice pursuant to subsection d. of this section.

f. Whenever an inmate is granted medical parole pursuant to this section, the appropriate board shall require, as a condition precedent to release, that the inmate's release plan include:

- (1) identification of a community sponsor;
- (2) verification of the availability of appropriate medical services sufficient to meet the treatment requirements identified pursuant to paragraph (4) of subsection b. of this section; and
- (3) verification of appropriate housing which may include, but need not be limited to, a hospital, hospice, nursing home facility or other housing accommodation suitable to the inmate's medical condition, disease or syndrome.

g. In addition to any conditions imposed pursuant to section 15 of P.L.1979, c.441 (C.30:4-123.59), as a condition of release on medical parole, the appropriate board panel may require an inmate to submit to periodic medical diagnoses by a licensed physician.

h. If, after review of a medical diagnosis required under the provisions of subsection g. of this section, the appropriate board panel determines that a parolee released on medical parole is no longer so debilitated or incapacitated by a terminal condition, disease or syndrome as to be physically incapable of committing a crime, the parolee shall be returned to confinement in an appropriate facility designated by the Commissioner of Corrections.

A decision to return the parolee to confinement pursuant to this subsection shall be rendered only after a hearing by the appropriate board panel or by a hearing officer designated by the chairman of the board. Nothing in this subsection shall be construed to limit the authority of the board, an appropriate board panel or parole officer of the State Parole Board to address a violation of a condition of parole pursuant to sections 16 through 21 of P.L.1979, c.441 (C.30:4-123.60 through 30:4-123.65).

i. The denial of a request for medical parole or the return of a parolee to confinement under the provisions of subsection h. of this section shall not preclude that inmate from being considered for parole pursuant to subsection a. of section 7 of P.L.1979, c.441 (C.30:4-123.51).

8. Section 1 of P.L.1994, c.135 (C.30:4-123.53a) is amended to read as follows:

C.30:4-123.53a Definitions; notice of release of certain offenders; procedures.

1. a. As used in this act: "Prosecutor" means the county prosecutor of the county in which

the defendant was convicted unless the matter was prosecuted by the Attorney General, in which case "prosecutor" means the Attorney General.

"Office of Victim Witness Advocacy" means the Office of Victim Witness Advocacy of the county in which the defendant was convicted.

b. Notwithstanding any other provision of law to the contrary, the State shall provide written notice to the prosecutor of the anticipated release from incarceration in a county or State penal institution or the Adult Diagnostic and Treatment Center of a person convicted of murder; manslaughter; aggravated sexual assault; sexual assault; aggravated assault; aggravated criminal sexual contact; kidnaping pursuant to paragraph (2) of subsection c. of N.J.S.2C:13-1; endangering the welfare of a child by engaging in sexual conduct which would impair or debauch the morals of the child pursuant to subsection a. of N.J.S.2C:24-4; endangering the welfare of a child pursuant to paragraph (4) of subsection b. of N.J.S.2C:24-4; luring or enticing pursuant to section 1 of P.L.1993, c.291 (C.2C:13-6); any other offense involving serious bodily injury or an attempt to commit any of the aforementioned offenses. In cases involving a release on parole, the State Parole Board shall provide the notice required by this subsection. In all other cases, including but not limited to release upon expiration of sentence or release from incarceration due to a change in sentence, the Department of Corrections shall provide the notice required by this subsection.

c. Notwithstanding any other provision of law to the contrary, the Juvenile Justice Commission established pursuant to section 2 of P.L.1995, c.284 (C.52:17B-170) shall provide written notice to the prosecutor of the anticipated release from incarceration of a juvenile adjudicated delinquent on the basis of an offense which, if committed by an adult, would constitute murder; manslaughter; aggravated sexual assault; sexual assault; aggravated assault; aggravated criminal sexual contact; kidnaping pursuant to paragraph (2) of subsection c. of N.J.S.2C:13-1; endangering the welfare of a child by engaging in sexual conduct which would impair or debauch the morals of the child pursuant to subsection a. of N.J.S.2C:24-4; endangering the welfare of a child pursuant to paragraph (4) of subsection b. of N.J.S.2C:24-4; luring or enticing pursuant to section 1 of P.L.1993, c.291 (C.2C:13-6); any other offense involving serious bodily injury or an attempt to commit any of the aforementioned offenses.

d. If available, the notice shall be provided to the prosecutor 90 days before the inmate's anticipated release; provided however, the notice shall be provided at least 30 days before release. The notice shall include the person's name, identifying factors, offense history, and anticipated future residence. The prosecutor shall notify the Office of Victim and Witness Advocacy and that office shall use any reasonable means available to them to notify the victim of the anticipated release unless the victim has requested not to be notified.

e. Upon receipt of notice, the prosecutor shall provide notice to the law enforcement agency responsible for the municipality where the inmate will reside, the municipality in which any victim resides, and such other State and local law enforcement agencies as appropriate for public safety.

9. Section 3 of P.L.1994, c.131 (C.30:4-6.1) is amended to read as follows:

C.30:4-6.1 Prosecutor notified by institution or parole board of inmate release; process.

3. a. The chief executive officer of the institution in which an inmate is confined shall notify the prosecutor of the release of an inmate, unless the inmate is released on parole, in which case the State Parole Board shall notify the prosecutor of the release. The notification shall occur as follows:

(1) Written notification shall be provided 90 days before the inmate's anticipated release whenever possible, but in no event fewer than 30 days before release if such release is due to the expiration of the inmate's maximum term or is authorized by the State Parole Board or order of the Governor upon commutation of a sentence of incarceration;

(2) Immediate telephone notification shall be provided whenever possible, followed by written notification within 48 hours, of pre-trial release, escape from custody or return to custody following an escape of a defendant detained or incarcerated in a county or State penal institution, including the Adult Diagnostic and Treatment Center; and

(3) Advance written notification shall be provided whenever possible of any other release of

an inmate from custody, including placement in an Intensive Supervision Program or other alternative disposition. If advance notification is not provided, notification shall be provided within 48 hours following release. All notice provided pursuant to this section shall include the inmate's name, identifying information, and anticipated residence.

10. Section 15 of P.L.1979, c.441 (C.30:4-123.59) is amended to read as follows:

C.30:4-123.59 Legal custody and supervision; conditions.

15. a. Each adult parolee shall at all times remain in the legal custody of the Commissioner of Corrections and under the supervision of the State Parole Board and each juvenile parolee shall at all times remain in the legal custody of the Juvenile Justice Commission established pursuant to section 2 of P.L.1995, c.284 (C.52:17B-170), except that the Commissioner of Corrections or the Executive Director of the Juvenile Justice Commission, after providing notice to the Attorney General, may consent to the supervision of a parolee by the federal government pursuant to the Witness Security Reform Act, Pub.L.98-473 (18 U.S.C. s.3251 et seq.). An adult parolee, except those under the Witness Security Reform Act, shall remain under the supervision of the State Parole Board and in the legal custody of the Department of Corrections, and a juvenile parolee, except those under the Witness Security Reform Act, shall remain under the supervision of the Juvenile Justice Commission, as appropriate, in accordance with the policies and rules of the board.

b. Each parolee shall agree, as evidenced by his signature to abide by specific conditions of parole established by the appropriate board panel which shall be enumerated in writing in a certificate of parole and shall be given to the parolee upon release. Such conditions shall include, among other things, a requirement that the parolee conduct himself in society in compliance with all laws and refrain from committing any crime, a requirement that the parolee will not own or possess any firearm as defined in subsection f. of N.J.S.2C:39-1 or any other weapon enumerated in subsection r. of N.J.S.2C:39-1, a requirement that the parolee refrain from the use, possession or distribution of a controlled dangerous substance, controlled substance analog or imitation controlled dangerous substance as defined in N.J.S.2C:35-2 and N.J.S.2C:35-11, a requirement that the parolee obtain permission from his parole officer for any change in his residence, and a requirement that the parolee report at reasonable intervals to an assigned parole officer. In addition, based on prior history of the parolee or information provided by a victim or a member of the family of a murder victim, the member or board panel certifying parole release pursuant to section 11 of P.L.1979, c.441 (C.30:4-123.55) may impose any other specific conditions of parole deemed reasonable in order to reduce the likelihood of recurrence of criminal or delinquent behavior. Such special conditions may include, among other things, a requirement that the parolee make full or partial restitution, the amount of which restitution shall be set by the sentencing court upon request of the board. In addition, the member or board panel certifying parole release may, giving due regard to a victim's request, impose a special condition that the parolee have no contact with the victim, which special condition may include, but need not be limited to, restraining the parolee from entering the victim's residence, place of employment, business or school, and from harassing or stalking the victim or victim's relatives in any way.

c. The appropriate board panel may in writing relieve a parolee of any parole conditions, and may permit a parolee to reside outside the State pursuant to the provisions of the Uniform Act for Out-of-State Parolee Supervision (N.J.S.2A:168-14 et seq.), the Interstate Compact on Juveniles, P.L.1955, c.55 (C.9:23-1 to 9:23-4), and, with the consent of the Commissioner of the Department of Corrections or the Executive Director of the Juvenile Justice Commission after providing notice to the Attorney General, the federal Witness Security Reform Act, if satisfied that such change will not result in a substantial likelihood that the parolee will commit an offense which would be a crime under the laws of this State. The appropriate board panel may revoke such permission, except in the case of a parolee under the Witness Security Reform Act, or reinstate relieved parole conditions for any period of time during which a parolee is under its jurisdiction.

d. The appropriate board panel may parole an inmate to any residential facility funded in

whole or in part by the State if the inmate would not otherwise be released pursuant to section 9 of P.L.1979, c.441 (C.30:4-123.53) without such placement. But if the residential facility provides treatment for mental illness or mental retardation, the board panel only may parole the inmate to the facility pursuant to the laws and admissions policies that otherwise govern the admission of persons to that facility, and the facility shall have the authority to discharge the inmate according to the laws and policies that otherwise govern the discharge of persons from the facility, on 10 days' prior notice to the board panel. The board panel shall acknowledge receipt of this notice in writing prior to the discharge. Upon receipt of the notice the board panel shall resume jurisdiction over the inmate.

e. Parole officers shall provide assistance to the parolee in obtaining employment, education or vocational training or in meeting other obligations to assure the parolee's compliance with meeting legal requirements related to sex offender notification, address changes and participation in rehabilitation programs as directed by the assigned parole officer.

f. The board panel on juvenile commitments and the assigned parole officer shall insure that the least restrictive available alternative is used for any juvenile parolee.

g. If the board has granted parole to any inmate from a State correctional facility or juvenile facility and the court has imposed a fine on such inmate, the appropriate board panel shall release such inmate on condition that the parolee make specified fine payments to the State Parole Board or the Juvenile Justice Commission. For violation of such conditions, or for violation of a special condition requiring restitution, parole may be revoked only for refusal or failure to make a good faith effort to make such payment.

h. Upon collection of the fine the same shall be paid over by the Department of Corrections or by the Juvenile Justice Commission to the State Treasury.

11. Section 16 of P.L.1979, c.441 (C.30:4-123.60) is amended to read as follows:

C.30:4-123.60 Violation of parole conditions.

16. a. Any parolee who violates a condition of parole may be subject to an order pursuant to section 17 of P.L.1979, c.441 (C.30:4-123.61) providing for one or more of the following: (1) That he be required to conform to one or more additional conditions of parole; (2) That he forfeit all or a part of commutation time credits granted pursuant to R.S.30:4-140.

b. Any parolee who has seriously or persistently violated the conditions of his parole, may have his parole revoked and may be returned to custody pursuant to sections 18 and 19 of P.L.1979, c.441 (C.30:4-123.62 and 30:4-123.63). The board shall be notified immediately upon the arrest or indictment of a parolee or upon the filing of charges that the parolee committed an act which, if committed by an adult, would constitute a crime. The board shall not revoke parole on the basis of new charges which have not resulted in a disposition at the trial level except that upon application by the prosecuting authority, the Juvenile Justice Commission established pursuant to section 2 of P.L.1995, c.284 (C.52:17B-170) or the Director of the State Parole Board's Division of Parole, the chairman of the board or his designee may at any time detain the parolee and commence revocation proceedings pursuant to sections 18 and 19 of P.L.1979, c.441 (C.30:4-123.62 and 30:4-123.63) when the chairman determines that the new charges against the parolee are of a serious nature and it appears that the parolee otherwise poses a danger to the public safety. In such cases, a parolee shall be informed that, if he testifies at the revocation proceedings, his testimony and the evidence derived therefrom shall not be used against him in a subsequent criminal prosecution or delinquency adjudication.

c. Any parolee who is convicted of a crime or adjudicated delinquent for an act which, if committed by an adult, would constitute a crime, committed while on parole shall have his parole revoked and shall be returned to custody unless the parolee demonstrates, by clear and convincing evidence at a hearing pursuant to section 19 of P.L.1979, c.441 (C.30:4-123.63), that good cause exists why he should not be returned to confinement.

12. Section 18 of P.L.1979, c.441 (C.30:4-123.62) is amended to read as follows:

C.30:4-123.62 Parole violation; apprehension; hearing.

18. a. (1) If a parole officer assigned to supervise a parolee has probable cause to believe that the parolee has violated a condition of his parole, such violation being a basis for return to custody pursuant to subsection b. of section 16 of P.L.1979, c.441 (C.30:4-123.60), a designated representative of the chairman of the board may issue a warrant for the arrest of the parolee if evidence indicates that the parolee may not appear at the preliminary hearing or if the parolee poses a danger to the public safety. With the parole warrant, a law enforcement officer may apprehend the delinquent parolee.

(2) If a parole officer assigned to supervise a parolee has probable cause to believe that the parolee has committed a crime, has committed an act or is about to commit an act which, if committed by an adult, would constitute a crime, is about to commit a crime or is about to flee the jurisdiction, which violation is a basis for return to custody pursuant to subsection b. of section 16 of P.L.1979, c.441 (C.30:4-123.60), and the situation is one of immediate emergency that cannot await the issuance of a warrant by a designated representative, the parole officer, by the parole officer's own warrant, may apprehend the parolee and cause his detention in a suitable facility designated by the Department of Corrections or the Juvenile Justice Commission established pursuant to section 2 of P.L.1995, c.284 (C.52:17B-170), as appropriate, or cause the parolee's confinement in an appropriate institution pending return to a facility designated by the Department of Corrections or the Juvenile Justice Commission, as appropriate, to await the conduction of a preliminary hearing. The warrant shall be in the form prescribed, as appropriate, by the Juvenile Justice Commission or by the State Parole Board and, when signed by the officer in charge of the case, shall be a sufficient instrument and authority to all peace officers to assist in the apprehension of the parolee. It shall also be sufficient authority for detention of the parolee in a suitable facility, to await the conduction of the preliminary hearing. Upon enforcement of the warrant, the appropriate board panel shall be promptly notified. No parolee held in custody on a parole warrant shall be entitled to release on bail.

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

c. The preliminary hearing shall be for the purpose of determining:

(1) Whether there is probable cause to believe that the parolee violated a condition of his parole being the basis for return to custody pursuant to subsection b. of section 16 of P.L.1979, c.441 (C.30:4-123.60), and

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

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

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

(2) The time, date, place and circumstances of the alleged violation;

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

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

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

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

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

f. If the evidence presented at the preliminary hearing does not support a finding of probable cause to believe that the parolee has violated a condition of his parole, such violation being a basis for return to custody pursuant to subsection b. of section 16 of P.L.1979, c.441 (C.30:4-123.60), or if it is otherwise determined that revocation is not desirable, the hearing officer may, in accordance with the provisions of subsection a. of section 16 of P.L.1979, c.441 (C.30:4-123.60) and section 17 of P.L.1979, c.441 (C.30:4-123.61), issue an order modifying parole and releasing the offender, or continuing parole and releasing the offender.

g. If the evidence presented at the preliminary hearing supports a finding of probable cause to believe that the parolee has violated a condition of his parole, the hearing officer shall determine whether the parolee shall be retained in custody or released on specific conditions

pending action by the appropriate board panel.

h. Conviction of a crime committed while on parole or adjudication of delinquency for an act which, if committed by an adult, would constitute a crime shall be deemed to constitute probable cause to believe that the parolee has violated a condition of parole.

13. Section 3 of P.L.1993, c.246 (C.43:16A-1.4) is amended to read as follows:

C.43:16A-1.4 Enrollment of parole officers.

3. If the Board of Trustees of the Police and Fireman's Retirement System of New Jersey makes a determination, pursuant to section 9 of P.L.1989, c.204 (C.43:16A-1.2), that the parole officers employed by the State Parole Board are eligible for membership in the Police and Firemen's Retirement System pursuant to section 1 of P.L.1944, c.255 (C.43:16A-1), the enrollment of those parole officers shall occur no earlier than one year after the effective date of this section pursuant to P.L.1993, c.246 (C.43:16A-1.4 et al.).

14. Section 1 of P.L.1968, c.427 (C.2A:154-4) is amended to read as follows:

C.2A:154-4 Corrections, parole officers, corrections investigators authorized to exercise police powers.

1. All correction officers of the State of New Jersey, parole officers employed by the State Parole Board and investigators in the Department of Corrections, who have been or who may hereafter be appointed or employed, shall, by virtue of such appointment or employment and in addition to any other power or authority, be empowered to act as officers for the detection, apprehension, arrest and conviction of offenders against the law.

15. N.J.S.2C:39-6 is amended to read as follows:

Exemptions.

2C:39-6. a. Provided a person complies with the requirements of subsection j. of this section, N.J.S.2C:39-5 does not apply to:

(1) Members of the Armed Forces of the United States or of the National Guard while actually on duty, or while traveling between places of duty and carrying authorized weapons in the manner prescribed by the appropriate military authorities;

(2) Federal law enforcement officers, and any other federal officers and employees required to carry firearms in the performance of their official duties;

(3) Members of the State Police and, under conditions prescribed by the superintendent, members of the Marine Law Enforcement Bureau of the Division of State Police;

(4) A sheriff, undersheriff, sheriff's officer, county prosecutor, assistant prosecutor, prosecutor's detective or investigator, deputy attorney general or State investigator employed by the Division of Criminal Justice of the Department of Law and Public Safety, investigator employed by the State Commission of Investigation, inspector of the Alcoholic Beverage Control Enforcement Bureau of the Division of State Police in the Department of Law and Public Safety authorized to carry such weapons by the Superintendent of State Police, State park ranger, or State conservation officer;

(5) A prison or jail warden of any penal institution in this State or his deputies, or an employee of the Department of Corrections engaged in the interstate transportation of convicted offenders, while in the performance of his duties, and when required to possess the weapon by his superior officer, or a correction officer or keeper of a penal institution in this State at all times while in the State of New Jersey, provided he annually passes an examination approved by the superintendent testing his proficiency in the handling of firearms;

(6) A civilian employee of the United States Government under the supervision of the commanding officer of any post, camp, station, base or other military or naval installation located in this State who is required, in the performance of his official duties, to carry firearms, and who is authorized to carry such firearms by said commanding officer, while in the actual performance of his official duties;

(7) (a) A regularly employed member, including a detective, of the police department of any county or municipality, or of any State, interstate, municipal or county park police force or boulevard police force, at all times while in the State of New Jersey;

(b) A special law enforcement officer authorized to carry a weapon as provided in subsection b. of section 7 of P.L.1985, c.439 (C.40A:14-146.14);

(c) An airport security officer or a special law enforcement officer appointed by the governing body of any county or municipality, except as provided in subsection b. of this section, or by the commission, board or other body having control of a county park or airport or boulevard police force, while engaged in the actual performance of his official duties and when specifically authorized by the governing body to carry weapons;

(8) A full-time, paid member of a paid or part-paid fire department or force of any municipality who is assigned full-time or part-time to an arson investigation unit created pursuant to section 1 of P.L.1981, c.409 (C.40A:14-7.1) or to the county arson investigation unit in the county prosecutor's office, while either engaged in the actual performance of arson investigation duties or while actually on call to perform arson investigation duties and when specifically authorized by the governing body or the county prosecutor, as the case may be, to carry weapons. Prior to being permitted to carry a firearm, such a member shall take and successfully complete a firearms training course administered by the Police Training Commission pursuant to P.L.1961, c.56 (C.52:17B-66 et seq.), and shall annually qualify in the use of a revolver or similar weapon prior to being permitted to carry a firearm;

(9) A juvenile corrections officer in the employment of the Juvenile Justice Commission established pursuant to section 2 of P.L.1995, c.284 (C.52:17B-170) subject to the regulations promulgated by the commission.

b. Subsections a., b. and c. of N.J.S.2C:39-5 do not apply to:

(1) A law enforcement officer employed by a governmental agency outside of the State of New Jersey while actually engaged in his official duties, provided, however, that he has first notified the superintendent or the chief law enforcement officer of the municipality or the prosecutor of the county in which he is engaged; or

(2) A licensed dealer in firearms and his registered employees during the course of their normal business while traveling to and from their place of business and other places for the purpose of demonstration, exhibition or delivery in connection with a sale, provided, however, that the weapon is carried in the manner specified in subsection g. of this section.

c. Provided a person complies with the requirements of subsection j. of this section, subsections b. and c. of N.J.S.2C:39-5 do not apply to:

(1) A special agent of the Division of Taxation who has passed an examination in an approved police training program testing proficiency in the handling of any firearm which he may be required to carry, while in the actual performance of his official duties and while going to or from his place of duty, or any other police officer, while in the actual performance of his official duties;

(2) A State deputy conservation officer or a full-time employee of the Division of Parks and Forestry having the power of arrest and authorized to carry weapons, while in the actual performance of his official duties;

(3) (Deleted by amendment, P.L.1986, c.150.)

(4) A court attendant serving as such under appointment by the sheriff of the county or by the judge of any municipal court or other court of this State, while in the actual performance of his official duties;

(5) A guard in the employ of any railway express company, banking or building and loan or savings and loan institution of this State, while in the actual performance of his official duties;

(6) A member of a legally recognized military organization while actually under orders or while going to or from the prescribed place of meeting and carrying the weapons prescribed for drill, exercise or parade;

(7) An officer of the Society for the Prevention of Cruelty to Animals, while in the actual performance of his duties;

(8) An employee of a public utilities corporation actually engaged in the transportation of explosives;

(9) A railway policeman, except a transit police officer of the New Jersey Transit Police Department, at all times while in the State of New Jersey, provided that he has passed an approved police academy training program consisting of at least 280 hours. The training program shall include, but need not be limited to, the handling of firearms, community relations, and juvenile relations;

(10) A campus police officer appointed under P.L.1970, c.211 (C.18A:6-4.2 et seq.) at all times. Prior to being permitted to carry a firearm, a campus police officer shall take and successfully complete a firearms training course administered by the Police Training Commission, pursuant to P.L.1961, c.56 (C.52:17B-66 et seq.), and shall annually qualify in the use of a revolver or similar weapon prior to being permitted to carry a firearm;

(11) A person who has not been convicted of a crime under the laws of this State or under the laws of another state or the United States, and who is employed as a full-time security guard for a nuclear power plant under the license of the Nuclear Regulatory Commission, while in the actual performance of his official duties;

(12) A transit police officer of the New Jersey Transit Police Department, at all times while in the State of New Jersey, provided the officer has satisfied the training requirements of the Police Training Commission, pursuant to subsection c. of section 2 of P.L.1989, c.291 (C.27:25-15.1);

(13) A parole officer employed by the State Parole Board at all times. Prior to being permitted to carry a firearm, a parole officer shall take and successfully complete a basic course for regular police officer training administered by the Police Training Commission, pursuant to P.L.1961, c.56 (C.52:17B-66 et seq.), and shall annually qualify in the use of a revolver or similar weapon prior to being permitted to carry a firearm;

(14) A Human Services police officer at all times while in the State of New Jersey, as authorized by the Commissioner of Human Services;

(15) A person or employee of any person who, pursuant to and as required by a contract with a governmental entity, supervises or transports persons charged with or convicted of an offense; or

(16) A housing authority police officer appointed under P.L.1997, c.210 (C.40A:14-146.19 et al.) at all times while in the State of New Jersey.

d. (1) Subsections c. and d. of N.J.S.2C:39-5 do not apply to antique firearms, provided that such antique firearms are unloaded or are being fired for the purposes of exhibition or demonstration at an authorized target range or in such other manner as has been approved in writing by the chief law enforcement officer of the municipality in which the exhibition or demonstration is held, or if not held on property under the control of a particular municipality, the superintendent.

(2) Subsection a. of N.J.S.2C:39-3 and subsection d. of N.J.S.2C:39-5 do not apply to an antique cannon that is capable of being fired but that is unloaded and immobile, provided that the antique cannon is possessed by (a) a scholastic institution, a museum, a municipality, a county or the State, or (b) a person who obtained a firearms purchaser identification card as specified in N.J.S.2C:58-3.

(3) Subsection a. of N.J.S.2C:39-3 and subsection d. of N.J.S.2C:39-5 do not apply to an unloaded antique cannon that is being transported by one eligible to possess it, in compliance with regulations the superintendent may promulgate, between its permanent location and place of purchase or repair.

(4) Subsection a. of N.J.S.2C:39-3 and subsection d. of N.J.S.2C:39-5 do not apply to antique cannons that are being loaded or fired by one eligible to possess an antique cannon, for purposes of exhibition or demonstration at an authorized target range or in the manner as has been approved in writing by the chief law enforcement officer of the municipality in which the exhibition or demonstration is held, or if not held on property under the control of a particular municipality, the superintendent, provided that performer has given at least 30 days' notice to the superintendent.

(5) Subsection a. of N.J.S.2C:39-3 and subsection d. of N.J.S.2C:39-5 do not apply to the transportation of unloaded antique cannons directly to or from exhibitions or demonstrations authorized under paragraph (4) of subsection d. of this section, provided that the transportation

is in compliance with safety regulations the superintendent may promulgate. Nor do those subsections apply to transportation directly to or from exhibitions or demonstrations authorized under the law of another jurisdiction, provided that the superintendent has been given 30 days' notice and that the transportation is in compliance with safety regulations the superintendent may promulgate.

e. Nothing in subsections b., c. and d. of N.J.S.2C:39-5 shall be construed to prevent a person keeping or carrying about his place of business, residence, premises or other land owned or possessed by him, any firearm, or from carrying the same, in the manner specified in subsection g. of this section, from any place of purchase to his residence or place of business, between his dwelling and his place of business, between one place of business or residence and another when moving, or between his dwelling or place of business and place where such firearms are repaired, for the purpose of repair. For the purposes of this section, a place of business shall be deemed to be a fixed location.

f. Nothing in subsections b., c. and d. of N.J.S.2C:39-5 shall be construed to prevent:

(1) A member of any rifle or pistol club organized in accordance with the rules prescribed by the National Board for the Promotion of Rifle Practice, in going to or from a place of target practice, carrying such firearms as are necessary for said target practice, provided that the club has filed a copy of its charter with the superintendent and annually submits a list of its members to the superintendent and provided further that the firearms are carried in the manner specified in subsection g. of this section;

(2) A person carrying a firearm or knife in the woods or fields or upon the waters of this State for the purpose of hunting, target practice or fishing, provided that the firearm or knife is legal and appropriate for hunting or fishing purposes in this State and he has in his possession a valid hunting license, or, with respect to fresh water fishing, a valid fishing license;

(3) A person transporting any firearm or knife while traveling:

(a) Directly to or from any place for the purpose of hunting or fishing, provided the person has in his possession a valid hunting or fishing license; or

(b) Directly to or from any target range, or other authorized place for the purpose of practice, match, target, trap or skeet shooting exhibitions, provided in all cases that during the course of the travel all firearms are carried in the manner specified in subsection g. of this section and the person has complied with all the provisions and requirements of Title 23 of the Revised Statutes and any amendments thereto and all rules and regulations promulgated thereunder; or

(c) In the case of a firearm, directly to or from any exhibition or display of firearms which is sponsored by any law enforcement agency, any rifle or pistol club, or any firearms collectors club, for the purpose of displaying the firearms to the public or to the members of the organization or club, provided, however, that not less than 30 days prior to the exhibition or display, notice of the exhibition or display shall be given to the Superintendent of the State Police by the sponsoring organization or club, and the sponsor has complied with such reasonable safety regulations as the superintendent may promulgate. Any firearms transported pursuant to this section shall be transported in the manner specified in subsection g. of this section;

(4) A person from keeping or carrying about a private or commercial aircraft or any boat, or from transporting to or from such vessel for the purpose of installation or repair a visual distress signalling device approved by the United States Coast Guard.

g. All weapons being transported under paragraph (2) of subsection b., subsection e., or paragraph (1) or (3) of subsection f. of this section shall be carried unloaded and contained in a closed and fastened case, gunbox, securely tied package, or locked in the trunk of the automobile in which it is being transported, and in the course of travel shall include only such deviations as are reasonably necessary under the circumstances.

h. Nothing in subsection d. of N.J.S.2C:39-5 shall be construed to prevent any employee of a public utility, as defined in R.S.48:2-13, doing business in this State or any United States Postal Service employee, while in the actual performance of duties which specifically require regular and frequent visits to private premises, from possessing, carrying or using any device which projects, releases or emits any substance specified as being noninjurious to canines or other animals by the Commissioner of Health and Senior Services and which immobilizes only

on a temporary basis and produces only temporary physical discomfort through being vaporized or otherwise dispensed in the air for the sole purpose of repelling canine or other animal attacks.

The device shall be used solely to repel only those canine or other animal attacks when the canines or other animals are not restrained in a fashion sufficient to allow the employee to properly perform his duties.

Any device used pursuant to this act shall be selected from a list of products, which consist of active and inert ingredients, permitted by the Commissioner of Health and Senior Services.

i. Nothing in N.J.S.2C:39-5 shall be construed to prevent any person who is 18 years of age or older and who has not been convicted of a felony, from possession for the purpose of personal self-defense of one pocket-sized device which contains and releases not more than three-quarters of an ounce of chemical substance not ordinarily capable of lethal use or of inflicting serious bodily injury, but rather, is intended to produce temporary physical discomfort or disability through being vaporized or otherwise dispensed in the air. Any person in possession of any device in violation of this subsection shall be deemed and adjudged to be a disorderly person, and upon conviction thereof, shall be punished by a fine of not less than \$100.00.

j. A person shall qualify for an exemption from the provisions of N.J.S.2C:39-5, as specified under subsections a. and c. of this section, if the person has satisfactorily completed a firearms training course approved by the Police Training Commission.

Such exempt person shall not possess or carry a firearm until the person has satisfactorily completed a firearms training course and shall annually qualify in the use of a revolver or similar weapon. For purposes of this subsection, a "firearms training course" means a course of instruction in the safe use, maintenance and storage of firearms which is approved by the Police Training Commission. The commission shall approve a firearms training course if the requirements of the course are substantially equivalent to the requirements for firearms training provided by police training courses which are certified under section 6 of P.L.1961, c.56 (C.52:17B-71). A person who is specified in paragraph (1), (2), (3) or (6) of subsection a. of this section shall be exempt from the requirements of this subsection.

k. Nothing in subsection d. of N.J.S.2C:39-5 shall be construed to prevent any financial institution, or any duly authorized personnel of the institution, from possessing, carrying or using for the protection of money or property, any device which projects, releases or emits tear gas or other substances intended to produce temporary physical discomfort or temporary identification.

l. Nothing in subsection b. of N.J.S.2C:39-5 shall be construed to prevent a law enforcement officer who retired in good standing, including a retirement because of a disability pursuant to section 6 of P.L.1944, c.255 (C.43:16A-6), section 7 of P.L.1944, c.255 (C.43:16A-7), section 1 of P.L.1989, c.103 (C.43:16A-6.1) or any substantially similar statute governing the disability retirement of federal law enforcement officers, provided the officer was a regularly employed, full-time law enforcement officer for an aggregate of five or more years prior to his disability retirement and further provided that the disability which constituted the basis for the officer's retirement did not involve a certification that the officer was mentally incapacitated for the performance of his usual law enforcement duties and any other available duty in the department which his employer was willing to assign to him or does not subject that retired officer to any of the disabilities set forth in subsection c. of N.J.S.2C:58-3 which would disqualify the retired officer from possessing or carrying a firearm, who semi-annually qualifies in the use of the handgun he is permitted to carry in accordance with the requirements and procedures established by the Attorney General pursuant to subsection j. of this section and pays the actual costs associated with those semi-annual qualifications, who is less than 70 years of age, and who was regularly employed as a full-time member of the State Police; a full-time member of an interstate police force; a full-time member of a county or municipal police department in this State; a full-time member of a State law enforcement agency; a full-time sheriff, undersheriff or sheriff's officer of a county of this State; a full-time State or county corrections officer; a full-time county park police officer; a full-time county prosecutor's detective or investigator; or a full-time federal law enforcement officer from carrying a handgun in the same manner as law enforcement officers exempted under paragraph (7) of subsection a. of this section under the conditions provided herein:

(1) The retired law enforcement officer, within six months after retirement, shall make application in writing to the Superintendent of State Police for approval to carry a handgun for one year. An application for annual renewal shall be submitted in the same manner.

(2) Upon receipt of the written application of the retired law enforcement officer, the superintendent shall request a verification of service from the chief law enforcement officer of the organization in which the retired officer was last regularly employed as a full-time law enforcement officer prior to retiring. The verification of service shall include:

- (a) The name and address of the retired officer;
- (b) The date that the retired officer was hired and the date that the officer retired;
- (c) A list of all handguns known to be registered to that officer;
- (d) A statement that, to the reasonable knowledge of the chief law enforcement officer, the retired officer is not subject to any of the restrictions set forth in subsection c. of N.J.S.2C:58-3; and
- (e) A statement that the officer retired in good standing.

(3) If the superintendent approves a retired officer's application or reapplication to carry a handgun pursuant to the provisions of this subsection, the superintendent shall notify in writing the chief law enforcement officer of the municipality wherein that retired officer resides. In the event the retired officer resides in a municipality which has no chief law enforcement officer or law enforcement agency, the superintendent shall maintain a record of the approval.

(4) The superintendent shall issue to an approved retired officer an identification card permitting the retired officer to carry a handgun pursuant to this subsection. This identification card shall be valid for one year from the date of issuance and shall be valid throughout the State. The identification card shall not be transferable to any other person. The identification card shall be carried at all times on the person of the retired officer while the retired officer is carrying a handgun. The retired officer shall produce the identification card for review on the demand of any law enforcement officer or authority.

(5) Any person aggrieved by the denial of the superintendent of approval for a permit to carry a handgun pursuant to this subsection may request a hearing in the Superior Court of New Jersey in the county in which he resides by filing a written request for such a hearing within 30 days of the denial. Copies of the request shall be served upon the superintendent and the county prosecutor. The hearing shall be held within 30 days of the filing of the request, and no formal pleading or filing fee shall be required. Appeals from the determination of such a hearing shall be in accordance with law and the rules governing the courts of this State.

(6) A judge of the Superior Court may revoke a retired officer's privilege to carry a handgun pursuant to this subsection for good cause shown on the application of any interested person. A person who becomes subject to any of the disabilities set forth in subsection c. of N.J.S.2C:58-3 shall surrender, as prescribed by the superintendent, his identification card issued under paragraph (4) of this subsection to the chief law enforcement officer of the municipality wherein he resides or the superintendent, and shall be permanently disqualified to carry a handgun under this subsection.

(7) The superintendent may charge a reasonable application fee to retired officers to offset any costs associated with administering the application process set forth in this subsection.

m. Nothing in subsection d. of N.J.S.2C:39-5 shall be construed to prevent duly authorized personnel of the New Jersey Division of Fish, Game and Wildlife, while in the actual performance of duties, from possessing, transporting or using any device that projects, releases or emits any substance specified as being non-injurious to wildlife by the Director of the Division of Animal Health in the Department of Agriculture, and which may immobilize wildlife and produces only temporary physical discomfort through being vaporized or otherwise dispensed in the air for the purpose of repelling bear or other animal attacks or for the aversive conditioning of wildlife.

n. Nothing in subsection b., c., d. or e. of N.J.S.2C:39-5 shall be construed to prevent duly authorized personnel of the New Jersey Division of Fish, Game and Wildlife, while in the actual performance of duties, from possessing, transporting or using hand held pistol-like devices, rifles or shotguns that launch pyrotechnic missiles for the sole purpose of frightening, hazing or aversive conditioning of nuisance or depredating wildlife; from possessing, transporting or using

rifles, pistols or similar devices for the sole purpose of chemically immobilizing wild or non-domestic animals; or, provided the duly authorized person complies with the requirements of subsection j. of this section, from possessing, transporting or using rifles or shotguns, upon completion of a Police Training Commission approved training course, in order to dispatch injured or dangerous animals or for non-lethal use for the purpose of frightening, hazing or aversive conditioning of nuisance or depredating wildlife.

16. Section 2 of P.L.1997, c.117 (C.2C:43-7.2) is amended to read as follows:

C.2C:43-7.2 Mandatory service of 85% of sentence for certain offenders.

2. a. A court imposing a sentence of incarceration for a crime of the first or second degree shall fix a minimum term of 85% of the sentence during which the defendant shall not be eligible for parole if the crime is a violent crime as defined in subsection d. of this section.

b. The provisions of subsection a. of this section shall not be construed or applied to reduce the time that must be served before eligibility for parole by an inmate sentenced to a mandatory minimum period of incarceration.

c. Notwithstanding any other provision of law to the contrary and in addition to any other sentence imposed, a court imposing a minimum period of parole ineligibility of 85 percent of the sentence pursuant to this section shall also impose a five-year term of parole supervision if the defendant is being sentenced for a crime of the first degree, or a three-year term of parole supervision if the defendant is being sentenced for a crime of the second degree. The term of parole supervision shall commence upon the completion of the sentence of incarceration imposed by the court pursuant to subsection a. of this section unless the defendant is serving a sentence of incarceration for another crime at the time he completes the sentence of incarceration imposed pursuant to subsection a., in which case the term of parole supervision shall commence immediately upon the defendant's release from incarceration. During the term of parole supervision the defendant shall remain in release status in the community in the legal custody of the Commissioner of the Department of Corrections and shall be supervised by the State Parole Board as if on parole and shall be subject to the provisions and conditions of section 3 of P.L.1997, c.117 (C.30:4-123.51b).

d. For the purposes of this section, "violent crime" means any crime in which the actor causes death, causes serious bodily injury as defined in subsection b. of N.J.S.2C:11-1, or uses or threatens the immediate use of a deadly weapon. "Violent crime" also includes any aggravated sexual assault or sexual assault in which the actor uses, or threatens the immediate use of, physical force.

For the purposes of this section, "deadly weapon" means any firearm or other weapon, device, instrument, material or substance, whether animate or inanimate, which in the manner it is used or is intended to be used, is known to be capable of producing death or serious bodily injury.

e. A court shall not impose sentence pursuant to this section unless the ground therefor has been established at a hearing after the conviction of the defendant and on written notice to him of the ground proposed. The defendant shall have the right to hear and controvert the evidence against him and to offer evidence upon the issue.

17. Section 5 of P.L.1979, c.441 (C.30:4-123.49) is amended to read as follows:

C.30:4-123.49 Assignment of cases; member as hearing officer; limitation to either adult or juvenile cases; representatives of board.

5. a. The chairman of the board, after consulting with the board, shall assign any case not otherwise assigned, such as county jail, workhouse, or penitentiary cases, to a special panel composed of any two members or any one member and one hearing officer as necessary for the efficient functioning of the board.

b. Nothing contained in this act shall be deemed to preclude a member of any board panel from exercising all the functions, powers, and duties of a hearing officer upon designation by the chairman; provided, however, that no member so designated shall participate in the disposition of a panel or board review of his initial decision.

c. No hearing officer assigned to review adult cases shall be assigned to review juvenile cases pursuant to sections 13 and 19 of P.L.1979, c.441 (C.30:4-123.57 and 30:4-123.63), nor shall any hearing officer assigned to review juvenile cases be assigned to review adult cases.

d. Representatives of the board or the chairman designated pursuant to this act may include employees of the board and employees of other agencies such as the Department of Corrections or the Juvenile Justice Commission established pursuant to section 2 of P.L.1995, c.284 (C.52:17B-170), provided that no employee of the Department of Corrections or the Juvenile Justice Commission shall be so designated without the approval of the Commissioner of Corrections or the Executive Director of the Commission. Such representatives shall not participate in the disposition of parole cases.

18. Section 8 of P.L.1979, c.441 (C.30:4-123.52) is amended to read as follows:

C.30:4-123.52 Increase or decrease of parole eligibility date, written statement to inmate, psychological evaluation.

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

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

c. The appropriate board panel shall annually monitor the progress of each adult inmate and provide the inmate with a written statement of any changes in his parole eligibility.

d. At any time while an inmate is committed to the custody of the Commissioner of Corrections, the appropriate board panel or the Parole Board may require, as often as it deems necessary, that inmate to undergo an in-depth preparole psychological evaluation conducted by a psychologist.

e. Prior to the parole eligibility date of each adult inmate, an objective risk assessment shall be performed by board staff or by some other appropriate agent of the State. The risk assessment, which shall be in a form prescribed by the board pursuant to rule and regulation, shall consist of both static and dynamic factors which may assist the board panel in determining whether the inmate shall be certified for parole and, if paroled, the level of supervision the parolee may require. In addition to the information otherwise gathered for and incorporated in the pre-parole report, the assessment shall include evaluations of the inmate's ability to function independently, the inmate's educational and employment background, the inmate's family and marital history, and such other information and factors as the board may deem appropriate and necessary.

19. This act shall take effect on the 120th day following enactment

Approved May 4, 2001.

Office of the Governor
NEWS RELEASE

PO BOX 004
TRENTON, NJ 08625

CONTACT: Rae Hutton
609-777-2600

RELEASE: May 4 , 2001

Acting Governor Donald T. DiFrancesco signed the following legislation today:

S-2026, sponsored by Senators William Gormley (R-Atlantic) and John Matheussen (R-Camden/Gloucester) transfers the Bureau of Parole in the Department of Corrections to the State Parole Board thus consolidating the Bureau of Parole and the State Parole Board under one direct authority.

A-2083, sponsored by Senators Diane Allen (R-Burlington/Camden) and Robert Littell (R-Sussex/Hunterdon/Morris) and Assembly members Joseph Azzolina (R-Middlesex/Monmouth) and Charlotte Vandervalk (R-Bergen) establishes a statewide Sexual Assault Nurse Examiner program (SSANE) in the Office of the Attorney General. The SSANE program is aimed at ensuring more accurate collection of forensic evidence for use in prosecuting suspected rapists and creates a compassionate way to treat sexual assault victims.

S-1708, sponsored by Joseph Kyrillos (R-Middlesex/Monmouth) and Henry McNamara (R-Bergen/Passaic) and Assemblymen Samuel Thompson (R-Middlesex/ Monmouth) and Joseph Azzolina (R-Middlesex/Monmouth) requires the New Jersey Department of Transportation to prepare a plan for litter pickup and removal along the highways maintained by the department.

S-1709, sponsored by Senators Joseph Kyrillos (R-Middlesex/Monmouth) and Henry McNamara (R-Bergen/Passaic) and Assemblymen Joseph Azzolina (R-Middlesex/Monmouth) and Samuel Thompson (R-Middlesex/Monmouth) increases the penalties for littering by establishing a minimum penalty of \$100 for the offense of littering and a minimum fine of \$250 for any person convicted of littering within six months of a previous conviction for littering.

S-1079, sponsored by Senator John Cafiero (R-Cape May/Atlantic/Cumberland) and Assemblymen Michael Carroll (R-Morris) and Richard Merkt (R-Morris) establishes a ten-year limitation on surveyors' liability for deficiencies in a survey. There is an exception for adverse possession cases where the statute of limitations for surveying would be the same as the time period required for the adverse possession.

S-269, sponsored by Senators John Bennett (R-Monmouth) and John Lynch (D-Middlesex/Somerset/Union) and Assemblyman Michael Carroll (R-Morris) exempts from current post-employment restrictions any partnership, firm or corporation engaged in the practice of law with which a former member of the Judiciary is associated and any partner, officer, director or employee of the partnership, firm or corporation if the former member of the Judiciary 1) is associated with the firm in an 'of counsel' position without any equity interest and 2) is screened for a period of two years subsequent to termination of the former member's employment from any personal participation in any representation, appearance for or negotiation on behalf of any holder of or applicant for, a casino license.

A-2548, sponsored by Assembly members Loretta Weinberg (D-Bergen) and Ken Zisa (D-Bergen) allows municipalities to require owners of multiple dwellings comprised of more than 20 dwelling units to prepare an emergency evacuation plan. The plan must be prepared in coordination with local fire and emergency response agencies.

A-2793, sponsored by Senators William Schluter (R-Warren/Hunterdon/Mercer) and Joseph Littell (R-Sussex/Hunterdon/Morris) and Assemblyman Leonard Lance (R-Warren/Hunterdon/Mercer) requires the release of water from the Spruce Run and Round Valley reservoirs into the south branch of the Raritan River for the purpose of supporting recreational water use. Additionally, there is an appropriation for \$350,000 that creates a non-lapsing fund to defray the expense in releasing water from the Round Valley reservoir incurred by the New Jersey Water Supply Authority.

A-3039, sponsored by Senator Robert Singer (R-Burlington/Monmouth/Ocean) and Assemblymen Jeffrey Moran (R-Atlantic/Burlington/Ocean) and Anthony Impreveduto (D-Bergen/Hudson) allows any mortician who holds a license or certification from another state to become licensed in New Jersey through endorsement provided he has met education and experience requirements substantially equivalent to the requirements of current New Jersey law.