

CHAPTER 141

AN ACT concerning the parole board, amending P.L.1979, c.441 and making an appropriation.

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

1. Section 3 of P.L.1979, c.441 (C.30:4-123.47) is amended to read as follows:

C.30:4-123.47 State Parole Board.

3. a. There is hereby created and established within the Department of Corrections a State Parole Board which shall consist of a chairman, 14 associate members and three alternate board members. The chairman, associate members and alternate board members shall be appointed by the Governor with the advice and consent of the Senate from qualified persons with training or experience in law, sociology, criminal justice, juvenile justice or related branches of the social sciences. Members of the board and the alternate board members shall be appointed for terms of six years and the terms of their successors shall be calculated from the expiration of the incumbent's term. Members shall serve until their successors are appointed and have qualified.

The Governor shall designate a vice-chairman from among the associate members. The vice-chairman shall assume the duties of the chairman when the chairman is absent, unavailable or otherwise unable to perform his duties, or, in the case of removal or a permanent incapacity, until the qualification of a successor chairman appointed by the Governor.

Any alternate board member may assume the duties of an associate member when the associate member is absent, unavailable or otherwise unable to perform his duties, or the associate member assumes the duties of the chairman, and shall perform those duties only until the associate resumes his duties, or, in the case of removal or a permanent incapacity, the qualification of a successor appointed by the Governor.

b. (1) Any vacancy occurring in the membership of the board, otherwise than by expiration of term, shall be filled in the same manner as one occurring by expiration of term, but for the unexpired term only. Any member of the board, including any alternate board member, may be removed from office by the Governor for cause.

(2) Upon certification of the chairman that additional parole panels are needed on a temporary basis for the efficient processing of parole decisions, the Governor also may appoint not more than four temporary acting parole board members from qualified persons with training or experience in law, sociology, criminal justice, juvenile justice or related branches of the social sciences. A temporary acting member shall be appointed for a term of three months. The Governor may extend the appointment of any or all of the temporary acting members for additional terms of three months, upon certification of the chairman that additional parole panels are needed on a temporary basis for the efficient processing of parole decisions. A temporary acting member shall be authorized to participate in administrative review of initial parole hearing decisions, parole consideration hearings and determinations concerning revocation or rescission of parole.

c. The members of the board shall devote their full time to the performance of their duties and be compensated pursuant to section 2 of P.L.1974, c.55 (C.52:14-15.108). Any alternate member and any temporary acting members shall be entitled to compensation. The amount of such compensation shall be determined by multiplying the rate an associate member would be paid on a per diem basis times the number of days the alternate board member or temporary acting member actually performed the duties of an associate member in accordance with the provisions of this section.

d. At the time of appointment, the Governor shall designate two associate members of the board to serve on a panel on juvenile commitments. The remaining 12 associate members of the board shall be appointed by the Governor to panels on adult sentences and assigned by the chairman of the board to six panels on adult sentences. The chairman of the board shall be a member of each panel. Nothing provided herein shall prohibit the chairman from reassigning any member appointed to a panel on adult sentences to facilitate the efficient function of the board. Nothing provided herein shall prohibit the chairman from temporarily reassigning any member appointed to a panel on juvenile commitments to a panel on adult sentences or a panel on young adult sentences to facilitate the efficient function of the board. The alternate board member may assume, in accordance with the provisions of this section, the duties of any associate member, regardless of whether that associate member serves on a panel on juvenile commitments or

panels on adult sentences. The chairman may assign a temporary acting member to a panel on adult sentences or juvenile commitments.

e. Of the associate members first appointed to the four positions created pursuant to the provisions of P.L.2001, c.141, one shall be appointed for a term of six years; one shall be appointed for a term of five years; one shall be appointed for a term of four years and one shall be appointed for a term of three years.

2. 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.

Hearing officers and such other positions as are designated by the Commissioner of the Department of Personnel shall serve at the pleasure of the chairman and shall not be subject to the provisions of Title 11A of the New Jersey Statutes. All other employees shall be in the career service and subject to the provisions of Title 11A of the New Jersey Statutes. All such career service employees who are employed by the State Parole Board on September 5, 2001 shall have permanent career service status with seniority awarded from the date of their appointments. 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. The report also may include relevant information on compliance with established time frames in the processing of parole eligibility determinations, the effectiveness of any pertinent legislative or administrative measures, and any recommendations to enhance board operations or to effectuate the purposes of the "Parole Act of 1979," P.L.1979, c.441 (C.30:4-123.45 et seq.).

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.

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

C.30:4-123.54 Report prior to parole eligibility date.

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

b. (1) The report filed pursuant to subsection a. shall contain preincarceration records of the inmate, including any history of civil commitment, any disposition which arose out of any charges suspended pursuant to N.J.S.2C:4-6 including records of the disposition of those charges and any acquittals by reason of insanity pursuant to N.J.S.2C:4-1, state the conduct of the inmate during the current period of confinement, include a complete report on the inmate's social and physical condition, include an investigation by the Division of Parole of the inmate's parole plans, and present information bearing upon the likelihood that the inmate will commit a crime under the laws of this State if released on parole. The report shall also include a complete psychological evaluation of the inmate in any case in which the inmate was convicted of a first or second degree crime involving violence and:

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

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

(c) the inmate has a prior diagnosis of psychosis.

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

The preincarceration records of the inmate contained in the report shall include any psychological reports prepared in connection with any court proceedings.

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

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

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

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

d. Upon receipt of the public notice pursuant to section 1 of P.L.1979, c.441 (C.30:4-123.45), a county prosecutor may request from the parole board a copy of the report on any adult inmate prepared pursuant to subsection a. of this section, which shall be expeditiously forwarded to the county prosecutor by the parole board by mail, courier, or other means of delivery. Upon receipt of the report, the prosecutor has 10 working days to review the

report and notify the parole board of the prosecutor's comments, if any, or notify the parole board of the prosecutor's intent to provide comments. If the county prosecutor does not provide comments or notify the parole board of the prosecutor's intent to provide comments within the 10 working days, the parole board may presume that the prosecutor does not wish to provide comments and may proceed with the parole consideration. Any comments provided by a county prosecutor shall be delivered to the parole board by the same method by which the county prosecutor received the report. The confidentiality of the contents in a report which are classified as confidential shall be maintained and shall not be disclosed to any person who is not authorized to receive or review a copy of the report containing the confidential information.

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

f. Notwithstanding any provision of this section, the board may modify the time periods for submitting the reports required pursuant to this section in processing an inmate whose parole eligibility date is accelerated pursuant to section 11 of P.L.1979, c.441 (C.30:4-123.55).

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

C.30:4-123.55 Review of reports, risk assessment, inmate's statement; certification, denial of parole; hearing.

11. a. Prior to the parole eligibility date of each adult inmate, a designated hearing officer shall review the reports required by section 10 of P.L.1979, c.441 (C.30:4-123.54), and shall determine whether there is a basis for denial of parole in the preparole report, any risk assessment prepared in accordance with the provisions of subsection e. of section 8 of P.L.1979, c.441 (C.30:4-123.52), or the inmate's statement, or an indication, reduced to writing, that additional information providing a basis for denial of parole would be developed or produced at a hearing. If the hearing officer determines that there is no basis in the preparole report, the risk assessment, or the inmate's statement for denial of parole and that there is no additional relevant information to be developed or produced at a hearing, he shall at least 60 days prior to the inmate's parole eligibility date recommend in writing to the assigned member of the board panel that parole release be granted.

b. If the assigned member of the board panel or in the case of an inmate sentenced to a county penal institution, the assigned member concurs in the hearing officer's recommendation, he shall certify parole release pursuant to section 15 of P.L.1979, c.441 (C.30:4-123.59) as soon as practicable after the eligibility date and so notify the inmate and the board. In the case of an inmate sentenced to a county penal institution the board shall certify parole release or deny parole as provided by this section, except with regard to time periods for notice and parole processing which are authorized by or otherwise adopted pursuant to subsection g. of section 7 of P.L.1979, c.441 (C.30:4-123.51). If the designated hearing officer does not recommend release on parole or if the assigned member does not concur in a recommendation of the designated hearing officer in favor of release, then the parole release of an inmate in a county penal institution shall be treated under the provisions of law otherwise applicable to an adult inmate. In the case of an inmate sentenced to a county penal institution, the performance of public service for the remainder of the term of the sentence shall be a required condition of parole, where appropriate.

c. If the hearing officer or the assigned member determines that there is a basis for denial of parole, or that a hearing is otherwise necessary, the hearing officer or assigned member shall notify the appropriate board panel and the inmate in writing of his determination, and of a date for a parole consideration hearing. The board panel shall notify the victim of the crime, if the crime for which the inmate is incarcerated was a crime of the first or second degree, or the victim's nearest relative if the crime was murder, as appropriate, who was previously contacted by the board and who has indicated his intention to the board to testify at the hearing, of the opportunity to testify or submit written or videotaped statements at the hearing. Said hearing shall be conducted by the appropriate board panel at least 30 days prior to the eligibility date. At the hearing, which shall be informal, the board panel shall receive as evidence any relevant

and reliable documents or videotaped or in person testimony, including that of the victim of the crime or the members of the family of a murder victim if the victim or a family member so desires. If a victim of a crime or the relative of a murder victim chooses not to testify personally at the hearing, the victim or relative may elect to present testimony to a senior hearing officer designated by the board panel. The senior hearing officer shall notify the victim of the right to have this testimony videotaped. The senior hearing officer shall prepare a report, transcript or videotape, if applicable, of the testimony for presentation to the board panel at the hearing. All such evidence not classified as confidential pursuant to rules and regulations of the board or the Department of Corrections shall be disclosed to the inmate and the inmate shall be permitted to rebut such evidence and to present evidence on his own behalf. The decision of the board panel shall be based solely on the evidence presented at the hearing.

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

e. Upon request by the hearing officer or the inmate, the time limitations contained in section 10 of P.L.1979, c.441 (C.30:4-123.54) and this section may be waived by the appropriate board panel for good cause.

f. Notwithstanding the provision of any other law to the contrary, if an inmate incarcerated for murder is recommended for parole by the assigned board member or the appropriate board panel, parole shall not be certified until a majority of the full parole board, after conducting a hearing, concurs in that recommendation. The board shall notify the victim's family of that hearing and family members shall be afforded the opportunity to testify in person or to submit written or videotaped statements. The provisions of this subsection shall not apply to an inmate who has his parole revoked and is returned to custody pursuant to the provisions of section 19 of P.L.1979, c.441 (C.30:4-123.63).

g. Notwithstanding the provision of any other law or regulation to the contrary, the board may promulgate rules and regulations for the processing of any inmate whose parole eligibility date is accelerated. For purposes of this section, a parole eligibility date is accelerated when an inmate becomes eligible for parole at the time of or within 120 days of an event or circumstance beyond the control of the parole board, such as sentencing, resentencing or other amendment, including the awarding of additional credit to the original sentence, restoration of authorized institutional time credits or the application of authorized institutional time credits on a future eligibility date established pursuant to subsection a. of section 12 of P.L.1979, c.441 (C.30:4-123.56) or subsection a. of section 20 of P.L.1979, c.441 (C.30:4-123.64). The rules and regulations shall provide for the preparation and review of a preparole report and shall require that a parole consideration hearing be held not more than 120 days after the board has received notice that an accelerated parole eligibility date has been established.

5. 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 or his designee, 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.

6. There is appropriated from the General Fund to the Department of Corrections for the State Parole Board \$685,000 to effectuate the purposes of this act. Of this amount, \$462,000 shall be used for the salaries of four additional board members and two administrative assistants, \$115,500 for employee benefits and \$90,000 for equipment and administrative costs.

7. This act shall take effect immediately

Approved July 2, 2001.