

ASSEMBLY, No. 1254

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Assemblyman GARY S. SCHAER

District 36 (Bergen and Passaic)

Assemblyman JAMEL C. HOLLEY

District 20 (Union)

SYNOPSIS

Establishes geriatric parole for certain eligible inmates.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



(Sponsorship Updated As Of: 6/15/2020)

1 **AN ACT** concerning parole, amending P.L.1979, c.441, and
2 supplementing Title 30 of the Revised Statutes.

3

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

6

7 1. Section 7 of P.L.1979, c.441 (C.30:4-123.51) is amended as
8 follows:

9 7. a. Each adult inmate sentenced to a term of incarceration in
10 a county penal institution, or to a specific term of years at the State
11 Prison or the correctional institution for women shall become
12 primarily eligible for parole after having served any judicial or
13 statutory mandatory minimum term, or one-third of the sentence
14 imposed where no mandatory minimum term has been imposed less
15 commutation time for good behavior pursuant to N.J.S.2A:164-24
16 or R.S.30:4-140 and credits for diligent application to work and
17 other institutional assignments pursuant to P.L.1972, c.115 (C.30:8-
18 28.1 et seq.) or R.S.30:4-92. Consistent with the provisions of the
19 New Jersey Code of Criminal Justice (N.J.S.2C:11-3, 2C:14-6,
20 2C:43-6, 2C:43-7), commutation and work credits shall not in any
21 way reduce any judicial or statutory mandatory minimum term and
22 such credits accrued shall only be awarded subsequent to the
23 expiration of the term.

24 b. Each adult inmate sentenced to a term of life imprisonment
25 shall become primarily eligible for parole after having served any
26 judicial or statutory mandatory minimum term, or 25 years where
27 no mandatory minimum term has been imposed less commutation
28 time for good behavior and credits for diligent application to work
29 and other institutional assignments. If an inmate sentenced to a
30 specific term or terms of years is eligible for parole on a date later
31 than the date upon which he would be eligible if a life sentence had
32 been imposed, then in such case the inmate shall be eligible for
33 parole after having served 25 years, less commutation time for good
34 behavior and credits for diligent application to work and other
35 institutional assignments. Consistent with the provisions of the
36 New Jersey Code of Criminal Justice (N.J.S.2C:11-3, 2C:14-6,
37 2C:43-6, 2C:43-7), commutation and work credits shall not in any
38 way reduce any judicial or statutory mandatory minimum term and
39 such credits accrued shall only be awarded subsequent to the
40 expiration of the term.

41 c. Each inmate sentenced to a specific term of years pursuant
42 to the "Controlled Dangerous Substances Act," P.L.1970, c.226
43 (C.24:21-1 et al.) shall become primarily eligible for parole after
44 having served one-third of the sentence imposed less commutation

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 time for good behavior and credits for diligent application to work
2 and other institutional assignments.

3 d. Each adult inmate sentenced to an indeterminate term of
4 years as a young adult offender pursuant to N.J.S.2C:43-5 shall
5 become primarily eligible for parole consideration pursuant to a
6 schedule of primary eligibility dates developed by the board, less
7 adjustment for program participation. In no case shall the board
8 schedule require that the primary parole eligibility date for a young
9 adult offender be greater than the primary parole eligibility date
10 required pursuant to this section for the presumptive term for the
11 crime authorized pursuant to subsection f. of N.J.S.2C:44-1.

12 e. Each adult inmate sentenced for an offense specified in
13 N.J.S.2C:47-1 shall become primarily eligible for parole as follows:

14 (1) If the court finds that the offender's conduct was not
15 characterized by a pattern of repetitive, compulsive behavior or
16 finds that the offender is not amenable to sex offender treatment, or
17 if after sentencing the Department of Corrections in its most recent
18 examination determines that the offender is not amenable to sex
19 offender treatment, the offender shall become primarily eligible for
20 parole after having served any judicial or statutory mandatory
21 minimum term or one-third of the sentence imposed where no
22 mandatory minimum term has been imposed. Neither such term
23 shall be reduced by commutation time for good behavior pursuant
24 to R.S.30:4-140 or credits for diligent application to work and other
25 institutional assignments pursuant to R.S.30:4-92.

26 (2) All other offenders shall be eligible for parole pursuant to
27 the provisions of N.J.S.2C:47-5, except no offender shall become
28 primarily eligible for parole prior to the expiration of any judicial or
29 statutory mandatory minimum term.

30 f. Each juvenile inmate committed to an indeterminate term
31 shall be immediately eligible for parole.

32 g. Each adult inmate of a county jail, workhouse or
33 penitentiary shall become primarily eligible for parole upon service
34 of 60 days of his aggregate sentence or as provided for in
35 subsection a. of this section, whichever is greater. Whenever any
36 such inmate's parole eligibility is within six months of the date of
37 such sentence, the judge shall state such eligibility on the record
38 which shall satisfy all public and inmate notice requirements. The
39 chief executive officer of the institution in which county inmates
40 are held shall generate all reports pursuant to subsection d. of
41 section 10 of P.L.1979, c.441 (C.30:4-123.54). The parole board
42 shall have the authority to promulgate time periods applicable to the
43 parole processing of inmates of county penal institutions, except
44 that no inmate may be released prior to the primary eligibility date
45 established by this subsection, unless consented to by the
46 sentencing judge. No inmate sentenced to a specific term of years
47 at the State Prison or the correctional institution for women shall

1 become primarily eligible for parole until service of a full nine
2 months of his aggregate sentence.

3 h. When an inmate is sentenced to more than one term of
4 imprisonment, the primary parole eligibility terms calculated
5 pursuant to this section shall be aggregated by the board for the
6 purpose of determining the primary parole eligibility date, except
7 that no juvenile commitment shall be aggregated with any adult
8 sentence. The board shall promulgate rules and regulations to
9 govern aggregation under this subsection.

10 i. The primary eligibility date shall be computed by a
11 designated representative of the board and made known to the
12 inmate in writing not later than 90 days following the
13 commencement of the sentence. In the case of an inmate sentenced
14 to a county penal institution such notice shall be made pursuant to
15 subsection g. of this section. Each inmate shall be given the
16 opportunity to acknowledge in writing the receipt of such
17 computation. Failure or refusal by the inmate to acknowledge the
18 receipt of such computation shall be recorded by the board but shall
19 not constitute a violation of this subsection.

20 j. Except as provided in this subsection, each inmate sentenced
21 pursuant to N.J.S.2A:113-4 for a term of life imprisonment,
22 N.J.S.2A:164-17 for a fixed minimum and maximum term or
23 subsection b. of N.J.S.2C:1-1 shall not be primarily eligible for
24 parole on a date computed pursuant to this section, but shall be
25 primarily eligible on a date computed pursuant to P.L.1948, c.84
26 (C.30:4-123.1 et seq.), which is continued in effect for this purpose.
27 Inmates classified as second, third or fourth offenders pursuant to
28 section 12 of P.L.1948, c.84 (C.30:4-123.12) shall become
29 primarily eligible for parole after serving one-third, one-half or
30 two-thirds of the maximum sentence imposed, respectively, less in
31 each instance commutation time for good behavior and credits for
32 diligent application to work and other institutional assignments;
33 provided, however, that if the prosecuting attorney or the
34 sentencing court advises the board that the punitive aspects of the
35 sentence imposed on such inmates will not have been fulfilled by
36 the time of parole eligibility calculated pursuant to this subsection,
37 then the inmate shall not become primarily eligible for parole until
38 serving an additional period which shall be one-half of the
39 difference between the primary parole eligibility date calculated
40 pursuant to this subsection and the parole eligibility date calculated
41 pursuant to section 12 of P.L.1948, c.84 (C.30:4-123.12). If the
42 prosecuting attorney or the sentencing court advises the board that
43 the punitive aspects of the sentence have not been fulfilled, such
44 advice need not be supported by reasons and will be deemed
45 conclusive and final. Any such decision shall not be subject to
46 judicial review except to the extent mandated by the New Jersey
47 and United States Constitutions. The board shall, reasonably prior
48 to considering any such case, advise the prosecuting attorney and

1 the sentencing court of all information relevant to such inmate's
2 parole eligibility.

3 k. Notwithstanding any provisions of this section to the
4 contrary, a person sentenced to imprisonment pursuant to paragraph
5 (2), (3) or (4) of subsection b. of N.J.S.2C:11-3 shall not be eligible
6 for parole.

7 l. Notwithstanding the provisions of subsections a. through j.
8 of this section, the appropriate board panel, as provided in section 1
9 of P.L.1997, c.214 (C.30:4-123.51c), may release an inmate serving
10 a sentence of imprisonment on medical parole at any time.

11 m. Notwithstanding the provisions of subsections a. through j.
12 of this section, the appropriate board panel, as provided in section 2
13 of P.L. , c. (C.) (pending before the Legislature as this bill),
14 may release an inmate serving a sentence of imprisonment on
15 geriatric parole at any time.

16 (cf: P.L.2007, c.204, s.6)

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18 2. (New section) a. Except as otherwise provided in section 9
19 of P.L.1979, c.441 (C.30:4-123.53) and in subsection c. of this
20 section, the appropriate board panel may release on geriatric parole
21 an inmate serving a sentence of imprisonment who meets the
22 conditions set forth in subsection b. of this section. The board
23 panel shall give special consideration to whether age, time served,
24 and diminished physical condition, if any, have reduced a geriatric
25 inmate's risk to public safety. The board panel shall state on the
26 record the reasons for granting or denying geriatric parole.

27 An inmate placed on parole pursuant to this section shall be
28 subject to custody, supervision, and conditions as provided in
29 section 15 of P.L.1970, c.441 (C.30:4-123.59) and shall be subject
30 to sanctions for a violation of a condition of parole as provided in
31 sections 16 through 21 of P.L.1979, c.441 (C.30:4-123.60 through
32 30:4-123.65).

33 b. An inmate shall be considered for geriatric parole if the
34 inmate meets both of the following conditions:

35 (1) the inmate is 65 years of age or older; and

36 (2) the inmate has served one third of the inmate's sentence.

37 c. No inmate shall be eligible for geriatric parole authorized
38 under subsection a. of this section who is serving a sentence for a
39 sex offense as defined in subsection b. of section 2 of P.L.1994,
40 c.133 (C.2C:7-2) or any sentence for:

41 (1) a violation of N.J.S.2C:11-3; N.J.S.2C:11-4; N.J.S.2C:13-1;
42 N.J.S.2C:15-1 in which the inmate, while in the course of
43 committing the theft, attempted to kill another, or purposely
44 inflicted or attempted to inflict serious bodily injury, or was armed
45 with or used or threatened the immediate use of a deadly weapon;
46 subsection a. of N.J.S.2C:17-1; section 2 of P.L.2002, c.26
47 (C.2C:38-2); or an attempt to commit any of these offenses; or

1 (2) a second degree violation of N.J.S.2C:20-4 or N.J.S.2C:21-
2 15 in which the inmate caused the victim to suffer a loss of personal
3 monetary savings as a result of fraud, misrepresentation, or a
4 violation of a fiduciary duty; or for a first degree violation of
5 N.J.S.2C:41-2.

6 d. At least five working days prior to commencing its review of
7 a request for geriatric parole, the appropriate board panel shall
8 notify the appropriate sentencing court; county prosecutor or, if the
9 matter was prosecuted by the Attorney General, the Attorney
10 General; and any victim or member of the family of a victim
11 entitled to notice relating to a parole or the consideration of a parole
12 under the provisions of P.L.1979, c.441 (C.30:4-123.45 et seq.).
13 The notice shall be given in the manner prescribed by the board and
14 shall contain all such information and documentation as the board
15 shall deem appropriate and necessary.

16 Upon receipt of the notice, the sentencing court; county
17 prosecutor or Attorney General, as the case may be; the victim or
18 member of the family of the victim, as the case may be, shall have
19 10 working days to review the notice and submit comments to the
20 appropriate board panel. If a recipient of the notice does not submit
21 comments within that 10-day period following the receipt of the
22 notice, the panel may presume that the recipient does not wish to
23 submit comments and proceed with its consideration of the request
24 for geriatric parole. Any comments provided by a recipient shall be
25 delivered to the appropriate board panel in the same manner or by
26 the same method as notice was given by the panel to that recipient.

27 The information contained in any notice given by a panel
28 pursuant to this subsection and the contents of any comments
29 submitted by a recipient in response thereto shall be confidential
30 and shall not be disclosed to any person who is not authorized to
31 receive or review that information or those comments.

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

35 Nothing in this subsection shall be construed to impair any
36 party's right to be heard pursuant to P.L.1979, c.441 (C.30:4-
37 123.45 et seq.).

38 e. The appropriate board panel shall provide written notice of
39 its decision to the sentencing court; the county prosecutor or
40 Attorney General, as the case may be; and any victim or member of
41 a victim's family given notice pursuant to subsection c. of this
42 section.

43 f. The denial of a request for geriatric parole shall not preclude
44 that inmate from being considered for parole pursuant to section 7
45 of P.L.1979, c.441 (C.30:4-123.51).

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47 3. This act shall take effect immediately.

STATEMENT

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This bill establishes geriatric parole for inmates 65 years of age or older who have served a minimum of one third of their sentence. The appropriate board panel reviewing a request for geriatric parole is to consider the inmate’s risk to public safety. Inmates who are serving a sentence for a sex offense as defined in Megan’s Law or for committing or attempting to commit the following offenses are not eligible for geriatric parole: murder, manslaughter, kidnapping, robbery, second degree arson, or terrorism. Additionally, inmates are not eligible for geriatric parole if serving a sentence for theft by deception, racketeering, or misapplication of entrusted property by fiduciary in which the inmate caused the victim to suffer a loss of personal monetary savings as a result of fraud, misrepresentation, or violation of a fiduciary duty.

This bill requires the board panel to notify the appropriate sentencing court, county prosecutor or Attorney General, and any victim or member of the family of a victim who are entitled to notice regarding parole. The sentencing court, county prosecutor or Attorney General, and any victim or member of the family of a victim would be afforded the opportunity to submit comments to the board panel.

Under this bill, denial of a request for geriatric parole does not preclude an inmate’s eligibility for parole under current law.