

ASSEMBLY, No. 1261

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)

SYNOPSIS

Revises criteria for medical parole for certain inmates; establishes medical parole for certain eligible juveniles.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 AN ACT concerning parole and amending P.L.1997, c.214.

2

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

5

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

8 1. a. (1) For the purpose of this section:

9 "Terminal condition, disease or syndrome" means a prognosis by
10 the licensed physicians designated by the Commissioner of
11 Corrections or the Executive Director of the Juvenile Justice
12 Commission pursuant to subsection b. of this section that an inmate
13 or juvenile has **【six months or less to live】** an illness that is
14 reasonably expected to result in death in 12 months or less.

15 "Permanent physical incapacity" means a prognosis that an
16 inmate or juvenile has a medical condition that renders the inmate
17 or juvenile permanently unable to perform activities of basic daily
18 living **【, results in the inmate requiring 24-hour care,】** and did not
19 exist at the time of sentencing.

20 "Permanent mental incapacity" means an advanced degenerative
21 brain disease or brain impairment that did not exist at the time of
22 sentencing and involves significant loss of brain function, including
23 but not limited to stroke, Alzheimer's disease, Parkinson's disease,
24 and related dementia.

25 (2) Except as otherwise provided in paragraph (3) of this
26 subsection, the appropriate board panel may release on medical
27 parole any inmate or juvenile serving any sentence of imprisonment
28 who has been diagnosed pursuant to subsection b. of this section as
29 suffering from a terminal condition, disease or syndrome, a
30 permanent mental incapacity, or a permanent physical incapacity
31 and is found by the appropriate board panel to be so debilitated or
32 incapacitated by the terminal condition, disease or syndrome,
33 permanent mental incapacity, or permanent physical incapacity as
34 to be permanently physically incapable of committing a crime if
35 released on parole and, in the case of a permanent physical
36 incapacity or a permanent mental incapacity, the conditions under
37 which the inmate or juvenile would be released would not pose a
38 threat to public safety.

39 The board panel shall state on the record the reasons for granting
40 or denying medical parole.

41 Notwithstanding any provision of P.L.1979, c.441 (C.30:4-
42 123.45 et seq.) to the contrary, the appropriate board panel may
43 release any such inmate or juvenile at any time during the term of
44 the sentence. An inmate or juvenile placed on parole pursuant to
45 this section shall be subject to custody, supervision and conditions

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 as provided in section 15 of P.L.1979, c.441 (C.30:4-123.59) and
2 shall be subject to sanctions for a violation of a condition of parole
3 as provided in sections 16 through 21 of P.L.1979, c.441 (C.30:4-
4 123.60 through 30:4-123.65).

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

14 b. A medical diagnosis that an inmate or juvenile is suffering
15 from a terminal condition, disease or syndrome, a permanent mental
16 incapacity, or a permanent physical incapacity, as appropriate, shall
17 be made by two licensed physicians designated by the
18 Commissioner of Corrections or the Executive Director of the
19 Juvenile Justice Commission. The diagnosis shall include, but not
20 be limited to:

21 (1) a description of the terminal condition, disease or syndrome,
22 the permanent mental incapacity, or the permanent physical
23 incapacity;

24 (2) a prognosis concerning the likelihood of recovery from the
25 terminal condition, disease or syndrome, the permanent mental
26 incapacity, or the permanent physical incapacity;

27 (3) a description of the inmate's or juvenile's physical
28 incapacity; and

29 (4) a description of the type of ongoing treatment that would be
30 required if the inmate or juvenile were released on medical parole.

31 c. A request for a medical diagnosis to determine whether an
32 inmate or juvenile is eligible for a medical parole under this section
33 may be submitted to the appropriate board panel by the
34 Commissioner of Corrections or the Executive Director of the
35 Juvenile Justice Commission, the administrator or superintendent of
36 a correctional facility; the inmate or juvenile; a member of the
37 inmate's or juvenile's family or the inmate's or juvenile's attorney.
38 The request shall be submitted in a manner and form prescribed by
39 the board.

40 d. At least five working days prior to commencing its review of
41 a request for a medical parole, the appropriate board panel shall
42 notify the appropriate sentencing court; county prosecutor or, if the
43 matter was prosecuted by the Attorney General, the Attorney
44 General; and any victim or member of the family of a victim
45 entitled to notice relating to a parole or the consideration of a parole
46 under the provisions of P.L.1979, c.441 (C.30:4-123.45 et seq.).
47 The notice shall be given in the manner prescribed by the board and

1 shall contain all such information and documentation relating to the
2 medical diagnosis prepared pursuant to subsection b. of this section
3 as the board shall deem appropriate and necessary.

4 Upon receipt of the notice, the sentencing court; county
5 prosecutor or Attorney General, as the case may be; the victim or
6 member of the family of the victim, as the case may be, shall have
7 10 working days to review the notice and submit comments to the
8 appropriate board panel. If a recipient of the notice does not submit
9 comments within that 10-day period following the receipt of the
10 notice, the panel may presume that the recipient does not wish to
11 submit comments and proceed with its consideration of the request
12 for medical parole. Any comments provided by a recipient shall be
13 delivered to the appropriate board panel in the same manner or by
14 the same method as notice was given by the panel to that recipient.

15 The information contained in any notice given by a panel
16 pursuant to this subsection and the contents of any comments
17 submitted by a recipient in response thereto shall be confidential
18 and shall not be disclosed to any person who is not authorized to
19 receive or review that information or those comments.

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

23 Nothing in this subsection shall be construed to impair any
24 party's right to be heard pursuant to P.L.1979, c.441 (C.30:4-
25 123.45 et seq.).

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

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

32 f. Whenever an inmate or juvenile is granted medical parole
33 pursuant to this section, the appropriate board shall require, as a
34 condition precedent to release, that the inmate's or juvenile's release
35 plan include:

- 36 (1) identification of a community sponsor;
- 37 (2) verification of the availability of appropriate medical
38 services sufficient to meet the treatment requirements identified
39 pursuant to paragraph (4) of subsection b. of this section; and
- 40 (3) verification of appropriate housing which may include, but
41 need not be limited to, a hospital, hospice, nursing home facility or
42 other housing accommodation suitable to the inmate's or juvenile's
43 medical condition, disease or syndrome, permanent mental
44 incapacity, or permanent physical incapacity.

45 The Parole Board shall ensure that any inmate or juvenile who is
46 an applicant for medical parole is provided an opportunity to apply,
47 and is provided necessary assistance to complete the application, for

1 medical assistance benefits under the Medicaid program established
2 pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.) prior to any
3 determination of ineligibility by the board panel as a result of the
4 inability to verify the availability of appropriate medical services,
5 as required pursuant to paragraph (2) of this subsection.

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

10 h. If, after review of a medical diagnosis required under the
11 provisions of subsection g. of this section, the appropriate board
12 panel determines that a parolee released on medical parole **is** no
13 longer so debilitated or incapacitated by a terminal condition,
14 disease or syndrome or by a permanent physical incapacity as to be
15 physically incapable of committing a crime or, in the case of a
16 permanent physical incapacity, the parolee **poses** a threat to public
17 safety, the parolee shall be returned to confinement in an
18 appropriate facility designated by the Commissioner of Corrections
19 or the Executive Director of the Juvenile Justice Commission, as
20 appropriate.

21 A decision to return the parolee to confinement pursuant to this
22 subsection shall be rendered only after a hearing by the appropriate
23 board panel or by a hearing officer designated by the chairman of
24 the board. Nothing in this subsection shall be construed to limit the
25 authority of the board, an appropriate board panel or parole officer
26 of the State Parole Board to address a violation of a condition of
27 parole pursuant to sections 16 through 21 of P.L.1979, c.441
28 (C.30:4-123.60 through 30:4-123.65).

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

34 (cf: P.L.2017, c.235, s.1)

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36 2. This act shall take effect immediately.

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STATEMENT

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41 This bill revises the criteria for medical parole for certain
42 inmates and establishes medical parole for certain eligible juveniles.

43 Under the bill, the State's medical parole law is expanded to
44 include juveniles in the custody of the Juvenile Justice Commission
45 as eligible for medical parole. In addition, under the bill, inmates or
46 juveniles suffering from an advanced degenerative brain disease or
47 brain impairment would be eligible for medical parole.

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1 Finally, this bill would require that an inmate or juvenile be
2 recalled to confinement only if the inmate or juvenile poses a threat
3 to public safety. Under current law, when an inmate's health
4 improves to the point that the inmate could physically commit a
5 crime, the inmate is required to be returned to custody.