

ASSEMBLY, No. 2193

STATE OF NEW JERSEY 212th LEGISLATURE

INTRODUCED JANUARY 30, 2006

Sponsored by:

Assemblyman NELSON T. ALBANO

District 1 (Cape May, Atlantic and Cumberland)

Assemblyman JEFF VAN DREW

District 1 (Cape May, Atlantic and Cumberland)

SYNOPSIS

Makes certain repeat offenders ineligible for parole.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning parole and amending P.L.1979, c.441.

2

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

5

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

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

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

40 c. Each inmate sentenced to a specific term of years pursuant to
41 the "Controlled Dangerous Substances Act," P.L.1970, c.226
42 (C.24:21-1 through 45) shall become primarily eligible for parole
43 after having served one-third of the sentence imposed less
44 commutation time for good behavior and credits for diligent
45 application to work and other institutional assignments.

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

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

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

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

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

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

48 h. When an inmate is sentenced to more than one term of

1 imprisonment, the primary parole eligibility terms calculated
2 pursuant to this section shall be aggregated by the board for the
3 purpose of determining the primary parole eligibility date, except
4 that no juvenile commitment shall be aggregated with any adult
5 sentence. The board shall promulgate rules and regulations to
6 govern aggregation under this subsection.

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

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

47 k. Notwithstanding any provisions of this section to the
48 contrary, a person sentenced to imprisonment pursuant to paragraph

1 (2) or (3) of subsection b. of N.J.S.2C:11-3 shall not be eligible for
2 parole.

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

7 m. Notwithstanding any provision of this section to the contrary,
8 a person sentenced to imprisonment in a State correctional facility
9 who has previously served all or part of at least two terms of
10 imprisonment in a correctional facility of this State, another state or
11 the United States shall be ineligible for parole consideration until
12 the person has served the maximum sentence imposed for the third
13 or subsequent offense.

14 (cf: P.L.1998, c.73, s.2)

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16 2. This act shall take effect immediately.

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STATEMENT

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21 This bill would limit parole eligibility for repeat offenders.
22 Specifically, a person who is sentenced to imprisonment in a State
23 correctional facility who has previously served all or part of at least
24 two terms of imprisonment in a correctional facility of this State,
25 another state or the United States would be required to serve the
26 maximum sentenced imposed for the third or subsequent offense
27 without eligibility for parole.

28 This bill is in response to the March 25, 2003 escape of
29 convicted murderer Anthony Russo from Bayside State Prison in
30 Maurice River Township. Paroled after serving only 14 years for
31 killing an off-duty Newark police officer in 1961, Russo
32 subsequently violated that parole on two occasions by committing
33 other serious crimes, including receiving stolen property and
34 distribution of controlled dangerous substances. The purpose of
35 this bill is to protect the public by preventing the parole of repeat
36 offenders like Russo.