

30:4-123.51 Eligibility for parole

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

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

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

□d. Each adult inmate sentenced to an indeterminate term of years as a young adult offender pursuant to N.J.S.2C:43-5 shall become primarily

eligible for parole consideration pursuant to a schedule of primary eligibility dates developed by the board, less adjustment for program participation. In no case shall the board schedule require that the primary parole eligibility date for a young adult offender be greater than the primary parole eligibility date required pursuant to this section for the presumptive term for the crime authorized pursuant to subsection f. of N.J.S.2C:44-1. □

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

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

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

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

□g. Each adult inmate of a county jail, workhouse or penitentiary shall become primarily eligible for parole upon service of 60 days of his aggregate sentence or as provided for in subsection a. of this section, whichever is greater. Whenever any such inmate's parole eligibility is within six months of the date of such sentence, the judge shall state such eligibility on the record which shall satisfy all public and inmate notice requirements. The chief executive officer of the institution in which county inmates are held shall generate all reports pursuant to subsection d. of section 10 of P.L.1979, c.441 (C.30:4-123.54). The parole board shall have the authority to promulgate time periods applicable to the parole

processing of inmates of county penal institutions, except that no inmate may be released prior to the primary eligibility date established by this subsection, unless consented to by the sentencing judge. No inmate sentenced to a specific term of years at the State Prison or the correctional institution for women shall become primarily eligible for parole until service of a full nine months of his aggregate sentence. □

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

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

□j. Except as provided in this subsection, each inmate sentenced pursuant to N.J.S.2A:113-4 for a term of life imprisonment, N.J.S.2A:164-17 for a fixed minimum and maximum term or subsection b. of N.J.S.2C:1-1 shall not be primarily eligible for parole on a date computed pursuant to this section, but shall be primarily eligible on a date computed pursuant to P.L.1948, c.84 (C.30:4-123.1 et seq.), which is continued in effect for this purpose. Inmates classified as second, third or fourth offenders pursuant to section 12 of P.L.1948, c.84 (C.30:4-123.12) shall become primarily eligible for parole after serving one-third, one-half or two-thirds of the maximum sentence imposed, respectively, less in each instance commutation time for good behavior and credits for diligent application to work and other institutional assignments; provided, however, that if the prosecuting attorney or the sentencing court advises the board that the punitive aspects of the sentence imposed on such inmates will not have been fulfilled by the time of parole eligibility calculated pursuant to this subsection, then the inmate shall not become primarily eligible for parole

until serving an additional period which shall be one-half of the difference between the primary parole eligibility date calculated pursuant to this subsection and the parole eligibility date calculated pursuant to section 12 of P.L.1948, c.84 (C.30:4-123.12). If the prosecuting attorney or the sentencing court advises the board that the punitive aspects of the sentence have not been fulfilled, such advice need not be supported by reasons and will be deemed conclusive and final. Any such decision shall not be subject to judicial review except to the extent mandated by the New Jersey and United States Constitutions. The board shall, reasonably prior to considering any such case, advise the prosecuting attorney and the sentencing court of all information relevant to such inmate's parole eligibility.□

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

□l. Notwithstanding the provisions of subsections a. through j. of this section, the appropriate board panel, as provided in section 1 of P.L.1997, c.214 (C.30:4-123.51c), may release an inmate serving a sentence of imprisonment on medical parole at any time.□□L.1979,c.441,s.7; amended 1982, c.71, s.2; 1997, c.60, s.3; 1997, c.214, s.2; 1998, c.73, s.2; 2007, c.204, s.6.□

□**30:4-123.51a. Inmate of county penal institution; revocation of parole; denial of credits and ineligibility for parole**□ Pursuant to section 16 of P.L.1979, c. 441 (C. 30:4-123.60), any inmate sentenced to a term of incarceration in a county penal institution who is granted parole and whose parole is revoked, shall not be credited for any time served during that parole and shall not be eligible for parole during the remainder of that county sentence.□□ L.1982, c. 71, s. 5, eff. July 16, 1982.□

□**30:4-123.51b Released status under term of parole supervision; rules, regulations; conditions applicable to parole supervision for life.**

□□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 Division of Parole of 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.). □ □

c. A person who has been sentenced to a term of parole supervision for life pursuant to section 2 of P.L.1994, c.130 (C.2C:43-6.4) shall, during the term of parole supervision, remain in the legal custody of the Commissioner of Corrections, be supervised by the Division of Parole of the State Parole Board, and be subject to the provisions and conditions set by the appropriate board panel in accordance with the procedures and standards set forth in sections 15 through 19 and 21 of P.L.1979, c.441 (C.30:4-123.59 through 30:4-123.63 and 30:4-123.65). If the parolee violates a condition of a special sentence of parole supervision for life, the parolee shall be subject to the provisions of sections 16 through 19 and 21 of P.L.1979, c.441 (C.30:4-123.60 through 30:4-123.63 and 30:4-123.65), and may be returned to prison. If revocation and return to custody are desirable pursuant to the provisions of section 19 of P.L.1979, c.441 (C.30:4-123.63), the appropriate board panel shall revoke parole and return the parolee to prison for a specified length of time between 12 and 18 months, which shall not be reduced by commutation time for good behavior pursuant to R.S.30:4-140 or credits for diligent application of work and other institutional assignments pursuant to R.S.30:4-92; provided, however, that nothing contained in this subsection shall be construed or applied to reduce the time that must be served after revocation of parole by a parolee returned to prison for a violation of a condition of any other term of parole supervision. Upon the parolee's release from prison, the parolee shall continue to serve the special sentence of parole supervision for life until released by the Superior Court

pursuant to subsection c. of section 2 of P.L.1994, c.130 (C.2C:43-6.4). For the purpose of calculating the limitation on time served pursuant to section 21 of P.L.1979, c.441 (C.30:4-123.65), the custodial term imposed upon the parolee related to the special sentence of parole supervision for life shall be deemed to be a term of life imprisonment. For the purpose of establishing a primary parole eligibility date pursuant to subsection h. of section 7 of P.L.1979, c. 441 (C.30:4-123.51), the specific period of incarceration required to be served pursuant to this subsection shall not be aggregated with a term of imprisonment imposed on the parolee for the commission of any other offense. Nothing in this section shall be construed to preclude or limit the prosecution or conviction for any crime defined in any law of this State, or to limit in any manner the State's ability to pursue both a criminal action and a parole violation pursuant to the provisions of this section or any other law. □ □ L.1997,c.117,s.3; amended 2001, c.79, s.6; 2003, c.267, s.2.

Kenneth Vercammen is the 2008 Municipal Court Attorney of the Year by the Middlesex County Bar Association. He was selected one of only three attorneys as a Super Lawyer 2008 in NJ Monthly in the Criminal – DWI category. Kenneth Vercammen was the NJ State Bar Municipal Court Attorney of the Year and past president of the Middlesex County Municipal Prosecutor's Association. □ □ He is the past chair of the NJ State Bar Association Municipal Court Section. He is the Deputy chair of the ABA Criminal Law committee, GP Division.

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