

5302

2011-2012 Regular Sessions

I N   S E N A T E

May 3, 2011

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Introduced by Sen. BALL -- read twice and ordered printed, and when printed to be committed to the Committee on Crime Victims, Crime and Correction

AN ACT to amend the executive law, in relation to extending the period of time between parole eligibility for certain inmates

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1     Section 1. Subparagraph (i) of paragraph (a) of subdivision 2 of  
2     section 259-i of the executive law, as amended by section 38-f-1 of  
3     subpart A of part C of chapter 62 of the laws of 2011, is amended and a  
4     new subparagraph (iii) is added to read as follows:  
5     (i) Except as provided in [subparagraph] SUBPARAGRAPHS (ii) AND (III)  
6     of this paragraph, at least one month prior to the date on which an  
7     inmate may be paroled pursuant to subdivision one of section 70.40 of  
8     the penal law, a member or members as determined by the rules of the  
9     board shall personally interview such inmate and determine whether he  
10    should be paroled in accordance with the guidelines adopted pursuant to  
11    subdivision four of section two hundred fifty-nine-c of this article. If  
12    parole is not granted upon such review, the inmate shall be informed in  
13    writing within two weeks of such appearance of the factors and reasons  
14    for such denial of parole. Such reasons shall be given in detail and not  
15    in conclusory terms. The board shall specify a date not more than twenty-four  
16    months from such determination for reconsideration, and the  
17    procedures to be followed upon reconsideration shall be the same. If the  
18    inmate is released, he shall be given a copy of the conditions of  
19    parole. Such conditions shall where appropriate, include a requirement  
20    that the parolee comply with any restitution order, mandatory surcharge,  
21    sex offender registration fee and DNA databank fee previously imposed by  
22    a court of competent jurisdiction that applies to the parolee. The  
23    conditions shall indicate which restitution collection agency established  
24    under subdivision eight of section 420.10 of the criminal proce-

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets [ ] is old law to be omitted.

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1 dure law, shall be responsible for collection of restitution, mandatory  
2 surcharge, sex offender registration fees and DNA databank fees as  
3 provided for in section 60.35 of the penal law and section eighteen  
4 hundred nine of the vehicle and traffic law.

5 (III) IN THE CASE OF ANY INMATE WHO IS INCARCERATED FOR ANY OFFENSE  
6 DEFINED IN TITLE H OF THE PENAL LAW WHERE A POLICE OFFICER, AS SUCH TERM  
7 IS DEFINED IN SECTION EIGHT HUNDRED THIRTY-FIVE OF THIS CHAPTER, OR A  
8 CORRECTION OFFICER, AS SUCH TERM IS USED IN THE CORRECTION LAW, IS THE  
9 VICTIM OF SUCH OFFENSE, AT LEAST ONE MONTH PRIOR TO THE DATE ON WHICH  
10 SUCH INMATE MAY BE PAROLED PURSUANT TO SUBDIVISION ONE OF SECTION 70.40  
11 OF THE PENAL LAW, A MEMBER OR MEMBERS AS DETERMINED BY THE RULES OF THE  
12 BOARD SHALL PERSONALLY INTERVIEW SUCH INMATE AND DETERMINE WHETHER HE OR  
13 SHE SHOULD BE PAROLED IN ACCORDANCE WITH THE GUIDELINES ADOPTED PURSUANT  
14 TO SUBDIVISION FOUR OF SECTION TWO HUNDRED FIFTY-NINE-C OF THIS ARTICLE.  
15 IF PAROLE IS NOT GRANTED UPON SUCH REVIEW, THE INMATE SHALL BE INFORMED  
16 IN WRITING WITHIN TWO WEEKS OF SUCH APPEARANCE OF THE FACTORS AND  
17 REASONS FOR SUCH DENIAL OF PAROLE. SUCH REASONS SHALL BE GIVEN IN DETAIL  
18 AND NOT IN CONCLUSORY TERMS. THE BOARD SHALL SPECIFY A DATE NOT MORE  
19 THAN FORTY-EIGHT MONTHS FROM SUCH DETERMINATION FOR RECONSIDERATION, AND  
20 THE PROCEDURES TO BE FOLLOWED UPON RECONSIDERATION SHALL BE THE SAME. IF  
21 SUCH INMATE IS RELEASED, HE OR SHE SHALL BE GIVEN A COPY OF THE CONDI-  
22 TIONS OF PAROLE. SUCH CONDITIONS SHALL, WHERE APPROPRIATE, INCLUDE A  
23 REQUIREMENT THAT THE PAROLEE COMPLY WITH ANY RESTITUTION ORDER, MANDATO-  
24 RY SURCHARGE, SEX OFFENDER REGISTRATION FEE AND DNA DATABANK FEE PREVI-  
25 OUSLY IMPOSED BY A COURT OF COMPETENT JURISDICTION THAT APPLIES TO THE  
26 PAROLEE. THE CONDITIONS SHALL INDICATE WHICH RESTITUTION COLLECTION  
27 AGENCY ESTABLISHED UNDER SUBDIVISION EIGHT OF SECTION 420.10 OF THE  
28 CRIMINAL PROCEDURE LAW, SHALL BE RESPONSIBLE FOR COLLECTION OF RESTITU-  
29 TION, MANDATORY SURCHARGE, SEX OFFENDER REGISTRATION FEES AND DNA DATA-  
30 BANK FEES AS PROVIDED FOR IN SECTION 60.35 OF THE PENAL LAW AND SECTION  
31 EIGHTEEN HUNDRED NINE OF THE VEHICLE AND TRAFFIC LAW.

32 S. 2. Paragraph (a) of subdivision 2 of section 259-i of the executive  
33 law, as amended by section 38-f-2 of subpart A of part C of chapter 62  
34 of the laws of 2011, is amended to read as follows:

35 (a) [At] (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARA-  
36 GRAPH, AT least one month prior to the expiration of the minimum period  
37 or periods of imprisonment fixed by the court or board, a member or  
38 members as determined by the rules of the board shall personally inter-  
39 view an inmate serving an indeterminate sentence and determine whether  
40 he should be paroled at the expiration of the minimum period or periods  
41 in accordance with the procedures adopted pursuant to subdivision four  
42 of section two hundred fifty-nine-c. If parole is not granted upon such  
43 review, the inmate shall be informed in writing within two weeks of such  
44 appearance of the factors and reasons for such denial of parole. Such  
45 reasons shall be given in detail and not in conclusory terms. The board  
46 shall specify a date not more than twenty-four months from such determi-  
47 nation for reconsideration, and the procedures to be followed upon  
48 reconsideration shall be the same. If the inmate is released, he shall  
49 be given a copy of the conditions of parole. Such conditions shall where  
50 appropriate, include a requirement that the parolee comply with any  
51 restitution order and mandatory surcharge previously imposed by a court  
52 of competent jurisdiction that applies to the parolee. The conditions  
53 shall indicate which restitution collection agency established under  
54 subdivision eight of section 420.10 of the criminal procedure law, shall  
55 be responsible for collection of restitution and mandatory surcharge as

1 provided for in section 60.35 of the penal law and section eighteen  
2 hundred nine of the vehicle and traffic law.

3 (II) IN THE CASE OF ANY INMATE WHO IS INCARCERATED FOR ANY OFFENSE  
4 DEFINED IN TITLE H OF THE PENAL LAW WHERE A POLICE OFFICER, AS SUCH TERM  
5 IS DEFINED IN SECTION EIGHT HUNDRED THIRTY-FIVE OF THIS CHAPTER, OR A  
6 CORRECTION OFFICER, AS SUCH TERM IS USED IN THE CORRECTION LAW, IS THE  
7 VICTIM OF SUCH OFFENSE, AT LEAST ONE MONTH PRIOR TO THE DATE ON WHICH  
8 SUCH INMATE MAY BE PAROLED PURSUANT TO SUBDIVISION ONE OF SECTION 70.40  
9 OF THE PENAL LAW, A MEMBER OR MEMBERS AS DETERMINED BY THE RULES OF THE  
10 BOARD SHALL PERSONALLY INTERVIEW SUCH INMATE AND DETERMINE WHETHER HE OR  
11 SHE SHOULD BE PAROLED IN ACCORDANCE WITH THE GUIDELINES ADOPTED PURSUANT  
12 TO SUBDIVISION FOUR OF SECTION TWO HUNDRED FIFTY-NINE-C OF THIS ARTICLE.  
13 IF PAROLE IS NOT GRANTED UPON SUCH REVIEW, THE INMATE SHALL BE INFORMED  
14 IN WRITING WITHIN TWO WEEKS OF SUCH APPEARANCE OF THE FACTORS AND  
15 REASONS FOR SUCH DENIAL OF PAROLE. SUCH REASONS SHALL BE GIVEN IN DETAIL  
16 AND NOT IN CONCLUSORY TERMS. THE BOARD SHALL SPECIFY A DATE NOT MORE  
17 THAN FORTY-EIGHT MONTHS FROM SUCH DETERMINATION FOR RECONSIDERATION, AND  
18 THE PROCEDURES TO BE FOLLOWED UPON RECONSIDERATION SHALL BE THE SAME. IF  
19 SUCH INMATE IS RELEASED, HE OR SHE SHALL BE GIVEN A COPY OF THE CONDI-  
20 TIONS OF PAROLE. SUCH CONDITIONS SHALL, WHERE APPROPRIATE, INCLUDE A  
21 REQUIREMENT THAT THE PAROLEE COMPLY WITH ANY RESTITUTION ORDER, MANDATO-  
22 RY SURCHARGE, SEX OFFENDER REGISTRATION FEE AND DNA DATABANK FEE PREVI-  
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27 TION, MANDATORY SURCHARGE, SEX OFFENDER REGISTRATION FEES AND DNA DATA-  
28 BANK FEES AS PROVIDED FOR IN SECTION 60.35 OF THE PENAL LAW AND SECTION  
29 EIGHTEEN HUNDRED NINE OF THE VEHICLE AND TRAFFIC LAW.

30 S 3. This act shall take effect on the first of November next succeed-  
31 ing the date on which it shall have become a law; provided, however,  
32 that the amendments to paragraph (a) of subdivision 2 of section 259-i  
33 of the executive law, made by section one of this act shall be subject  
34 to the expiration and reversion of such paragraph pursuant to section 74  
35 of chapter 3 of the laws of 1995, as amended, when upon such date the  
36 provisions of section two of this act shall take effect.