

3249

2011-2012 Regular Sessions

I N S E N A T E

February 14, 2011

Introduced by Sen. NOZZOLIO -- 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 directing the division of parole, on its internet homepage, to maintain a list of inmates eligible for parole and to provide crime victims a means to register to receive notice of the parole hearing of the inmate who committed the crime against such victim, requiring the division of parole to submit a report on the inmates granted parole, the consideration of inmates for parole, and the crime victims fair treatment standard pamphlet

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

1 Section 1. Section 259-a of the executive law is amended by adding two
2 new subdivisions 8-a and 8-b to read as follows:
3 8-A. THE DIVISION SHALL, ON ITS INTERNET HOMEPAGE:
4 (A) PROVIDE AND MAINTAIN ON A CURRENT BASIS A LISTING OF ALL INMATES
5 WHO WILL APPEAR BEFORE THE BOARD OF PAROLE AT SOME FUTURE DATE, AND FOR
6 EACH SUCH INMATE THE DATE OF SUCH APPEARANCE, THE CRIME OR CRIMES OF
7 CONVICTION AND THE INMATE'S NEW YORK STATE IDENTIFICATION NUMBER; AND
8 (B) PROVIDE A MEANS FOR ANY VICTIM, AS SUCH TERM IS DEFINED IN SUBDI-
9 VISION TWO OF SECTION 440.50 OF THE CRIMINAL PROCEDURE LAW, TO REGISTER
10 TO RECEIVE NOTICE AT SUCH PERSON'S ELECTRONIC MAIL ADDRESS OR HIS OR HER
11 PERSONAL MAIL ADDRESS OR BOTH THE ELECTRONIC MAIL ADDRESS AND PERSONAL
12 MAIL ADDRESS OF THE DATE OF THE SCHEDULED APPEARANCE BEFORE THE BOARD OF
13 PAROLE OF THE INMATE WHO WAS CONVICTED OF THE CRIME AGAINST THE VICTIM.
14 8-B. THE DIVISION SHALL PRESENT TO THE GOVERNOR, TEMPORARY PRESIDENT
15 OF THE SENATE, MINORITY LEADER OF THE SENATE, SPEAKER OF THE ASSEMBLY
16 AND THE MINORITY LEADER OF THE ASSEMBLY A QUARTERLY REPORT DETAILING THE
17 NUMBER OF INMATES WHO APPEARED BEFORE THE BOARD OF PAROLE PURSUANT TO
18 SECTION TWO HUNDRED FIFTY-NINE-I OF THIS ARTICLE AND THE NUMBER OF SUCH

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

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1 INMATES WHO WERE GRANTED PAROLE, SEPARATELY STATING THE INFORMATION FOR
2 THOSE CONVICTED OF A CLASS A FELONY, THOSE CONVICTED OF A VIOLENT FELONY
3 OFFENSE, AS DEFINED IN SECTION 70.02 OF THE PENAL LAW, AND THOSE
4 CONVICTED OF AN OFFENSE OTHER THAN A CLASS A FELONY OR A VIOLENT FELONY
5 OFFENSE; AND FOR EACH INMATE WHO WAS RELEASED TO PAROLE BY THE BOARD,
6 THE NAME OF THE INMATE, THE CRIME OR CRIMES OF CONVICTION, THE COUNTY OF
7 CONVICTION, THE SENTENCE IMPOSED UPON SUCH INMATE AND THE AMOUNT OF SUCH
8 SENTENCE WHICH HAS BEEN SERVED BY THE INMATE IN CONFINEMENT PRIOR TO
9 RELEASE ON PAROLE. THE INITIAL REPORT REQUIRED BY THIS SUBDIVISION SHALL
10 BE FOR THE PERIOD BEGINNING SEPTEMBER FIRST, TWO THOUSAND TWELVE AND
11 ENDING DECEMBER THIRTY-FIRST, TWO THOUSAND TWELVE AND SHALL BE PRESENTED
12 NO LATER THAN JANUARY THIRTY-FIRST, TWO THOUSAND THIRTEEN. THEREAFTER,
13 EACH QUARTERLY REPORT SHALL BE PRESENTED NO LATER THAN THIRTY DAYS AFTER
14 THE CLOSE OF EACH QUARTER.

15 S 2. Subparagraph (i) of paragraph (a) of subdivision 2 of section
16 259-i of the executive law, as separately amended by section 11 of part
17 E and section 9 of part F of chapter 62 of the laws of 2003, is amended
18 to read as follows:

19 (i) Except as provided in subparagraph (ii) of this paragraph, at
20 least one month prior to the date on which an inmate may be paroled
21 pursuant to subdivision one of section 70.40 of the penal law, a member
22 or members as determined by the rules of the board shall personally
23 interview such inmate and determine whether he OR SHE should be paroled
24 in accordance with the guidelines adopted pursuant to subdivision four
25 of section two hundred fifty-nine-c of this article. NOTWITHSTANDING
26 ANY OTHER LAW, RULE OR REGULATION TO THE CONTRARY, AN INMATE WHO IS
27 CONVICTED OF A CLASS A FELONY MUST BE INTERVIEWED BY NOT LESS THAN THREE
28 MEMBERS OF THE BOARD AND PAROLE SHALL NOT BE GRANTED TO SUCH INMATE
29 EXCEPT UPON THE CONCURRENCE OF ALL OF THE MEMBERS WHO HAVE INTERVIEWED
30 SUCH INMATE. If parole is not granted upon such review, the inmate shall
31 be informed in writing within two weeks of such appearance of the
32 factors and reasons for such denial of parole. Such reasons shall be
33 given in detail and not in conclusory terms. The board shall specify a
34 date not more than twenty-four months from such determination for recon-
35 sideration, and the procedures to be followed upon reconsideration shall
36 be the same. If the inmate is released, he OR SHE shall be given a copy
37 of the conditions of parole. Such conditions shall where appropriate,
38 include a requirement that the parolee comply with any restitution
39 order, mandatory surcharge, sex offender registration fee and DNA data-
40 bank fee previously imposed by a court of competent jurisdiction that
41 applies to the parolee. The board of parole shall indicate which resti-
42 tution collection agency established under subdivision eight of section
43 420.10 of the criminal procedure law, shall be responsible for
44 collection of restitution, mandatory surcharge, sex offender registra-
45 tion fees and DNA databank fees as provided for in section 60.35 of the
46 penal law and section eighteen hundred nine of the vehicle and traffic
47 law. NOT LESS THAN NINE MONTHS PRIOR TO THE DATE THAT AN INMATE WILL BE
48 PERSONALLY INTERVIEWED BY THE MEMBERS OF THE BOARD, NOTICE OF THE DATE
49 OF SUCH INTERVIEW SHALL BE GIVEN TO THE DISTRICT ATTORNEY OF THE COUNTY
50 IN WHICH THE INMATE WAS CONVICTED; AND NOTICE OF THE DATE OF SUCH INTER-
51 VIEW AND A STATEMENT OF THE VICTIM'S RIGHTS UNDER SECTION 440.50 OF THE
52 CRIMINAL PROCEDURE LAW SHALL BE GIVEN BY THE BOARD TO THE VICTIM, AS
53 SUCH TERM IS DEFINED IN SUBDIVISION TWO OF SECTION 440.50 OF THE CRIMI-
54 NAL PROCEDURE LAW, PROVIDED THAT THE VICTIM HAS REQUESTED SUCH NOTICE.
55 THE VICTIM MAY REQUEST SUCH NOTICE IN THE MANNER PROVIDED BY SECTION
56 440.50 OF THE CRIMINAL PROCEDURE LAW, OR AT ANY OTHER TIME BY WRITTEN

1 REQUEST TO THE BOARD OR BY REQUESTING SUCH NOTICE ON THE INTERNET
2 WEBSITE OF THE DIVISION AS PROVIDED IN SUBDIVISION EIGHT-A OF SECTION
3 TWO HUNDRED FIFTY-NINE-A OF THIS ARTICLE.

4 S 3. Paragraph (a) of subdivision 2 of section 259-i of the executive
5 law, as amended by chapter 396 of the laws of 1987, is amended to read
6 as follows:

7 (a) At least one month prior to the expiration of the minimum period
8 or periods of imprisonment fixed by the court or board, a member or
9 members as determined by the rules of the board shall personally inter-
10 view an inmate serving an indeterminate sentence and determine whether
11 he OR SHE should be paroled at the expiration of the minimum period or
12 periods in accordance with the guidelines adopted pursuant to subdivi-
13 sion four of section two hundred fifty-nine-c OF THIS ARTICLE. NOTWITH-
14 STANDING ANY OTHER LAW, RULE OR REGULATION TO THE CONTRARY, AN INMATE
15 WHO IS CONVICTED OF A CLASS A FELONY MUST BE INTERVIEWED BY NOT LESS
16 THAN THREE MEMBERS OF THE BOARD AND PAROLE SHALL NOT BE GRANTED TO SUCH
17 INMATE EXCEPT UPON THE CONCURRENCE OF ALL OF THE MEMBERS WHO HAVE INTER-
18 VIEWED SUCH INMATE. If parole is not granted upon such review, the
19 inmate shall be informed in writing within two weeks of such appearance
20 of the factors and reasons for such denial of parole. Such reasons shall
21 be given in detail and not in conclusory terms. The board shall specify
22 a date not more than twenty-four months from such determination for
23 reconsideration, and the procedures to be followed upon reconsideration
24 shall be the same. If the inmate is released, he OR SHE shall be given a
25 copy of the conditions of parole. Such conditions shall where appropri-
26 ate, include a requirement that the parolee comply with any restitution
27 order and mandatory surcharge previously imposed by a court of competent
28 jurisdiction that applies to the parolee. The board of parole shall
29 indicate which restitution collection agency established under subdivi-
30 sion eight of section 420.10 of the criminal procedure law, shall be
31 responsible for collection of restitution and mandatory surcharge as
32 provided for in section 60.35 of the penal law and section eighteen
33 hundred nine of the vehicle and traffic law. NOT LESS THAN NINE MONTHS
34 PRIOR TO THE DATE THAT AN INMATE WILL BE PERSONALLY INTERVIEWED BY THE
35 MEMBERS OF THE BOARD, NOTICE OF THE DATE OF SUCH INTERVIEW SHALL BE
36 GIVEN TO THE DISTRICT ATTORNEY OF THE COUNTY IN WHICH THE INMATE WAS
37 CONVICTED; AND NOTICE OF THE DATE OF SUCH INTERVIEW AND A STATEMENT OF
38 THE VICTIM'S RIGHTS UNDER SECTION 440.50 OF THE CRIMINAL PROCEDURE LAW
39 SHALL BE GIVEN BY THE BOARD TO THE VICTIM, AS SUCH TERM IS DEFINED IN
40 SUBDIVISION TWO OF SECTION 440.50 OF THE CRIMINAL PROCEDURE LAW,
41 PROVIDED THAT THE VICTIM HAS REQUESTED SUCH NOTICE. THE VICTIM MAY
42 REQUEST SUCH NOTICE IN THE MANNER PROVIDED BY SECTION 440.50 OF THE
43 CRIMINAL PROCEDURE LAW, OR AT ANY OTHER TIME BY WRITTEN REQUEST TO THE
44 BOARD OR BY REQUESTING SUCH NOTICE ON THE INTERNET WEBSITE OF THE DIVI-
45 SION AS PROVIDED IN SUBDIVISION EIGHT-A OF SECTION TWO HUNDRED
46 FIFTY-NINE-A OF THIS ARTICLE.

47 S 4. Paragraph (g) of subdivision 2 of section 646-a of the executive
48 law, as added by chapter 186 of the laws of 2005, is amended to read
49 as follows:

50 (g) the rights of crime victims to be aware of the defendant's incar-
51 ceration status by providing the division of parole's contact informa-
52 tion, including the division's toll-free telephone number, as provided
53 for in subdivision two of section two hundred fifty-nine-i of this chap-
54 ter, AND THE INTERNET WEB ADDRESS OF THE DIVISION, AS PROVIDED BY SUBDI-
55 VISION EIGHT-A OF SECTION TWO HUNDRED FIFTY-NINE-A OF THIS CHAPTER.

1 Such notice shall advise the crime victim to use the division's toll-
2 free telephone number OR INTERNET WEBSITE to update contact information.

3 S 5. This act shall take effect immediately, provided that:

4 (a) subdivision 8-a of section 259-a of the executive law, as added by
5 section one of this act, and section four of this act shall take effect
6 on the one hundred eightieth day after it shall have become a law, and
7 effective immediately, any rules and regulations, and any other actions,
8 necessary to implement such provisions of this act on their effective
9 date are authorized and directed to be completed on or before such date;
10 and

11 (b) the amendments to paragraph (a) of subdivision 2 of section 259-i
12 of the executive law, made by section two of this act, shall be subject
13 to the expiration and reversion of such paragraph pursuant to subdivi-
14 sion d of section 74 of chapter 3 of the laws of 1995, as amended, when
15 upon such date the provisions of section three of this act shall take
16 effect.