S T A T E O F N E W Y O R K

3249--A

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 -- recommitted to the Committee on Crime Victims, Crime and Correction in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the executive law, in relation to directing the board 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 board 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:

Section 1. Section 259-c of the executive law is amended by adding two new subdivisions 18 and 19 to read as follows:

18. ON ITS INTERNET HOMEPAGE:

(A) PROVIDE AND MAINTAIN ON A CURRENT BASIS A LISTING OF ALL INMATES WHO WILL APPEAR BEFORE THE BOARD AT SOME FUTURE DATE, AND FOR EACH SUCH INMATE THE DATE OF SUCH APPEARANCE, THE CRIME OR CRIMES OF CONVICTION AND THE INMATE'S NEW YORK STATE IDENTIFICATION NUMBER; AND

(B) PROVIDE A MEANS FOR ANY VICTIM, AS SUCH TERM IS DEFINED IN SUBDIVISION TWO OF SECTION 440.50 OF THE CRIMINAL PROCEDURE LAW, TO REGISTER TO RECEIVE NOTICE AT SUCH PERSON'S ELECTRONIC MAIL ADDRESS OR HIS OR HER PERSONAL MAIL ADDRESS OR BOTH THE ELECTRONIC MAIL ADDRESS AND PERSONAL MAIL ADDRESS OF THE DATE OF THE SCHEDULED APPEARANCE BEFORE THE BOARD OF THE INMATE WHO WAS CONVICTED OF THE CRIME AGAINST THE VICTIM.

19. PRESENT TO THE GOVERNOR, TEMPORARY PRESIDENT OF THE SENATE, MINORITY LEADER OF THE SENATE, SPEAKER OF THE ASSEMBLY AND THE MINORITY LEADER OF THE ASSEMBLY A QUARTERLY REPORT DETAILING THE NUMBER OF INMATES

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

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WHO APPEARED BEFORE THE BOARD PURSUANT TO SECTION TWO HUNDRED FIFTY-NINE-I OF THIS ARTICLE AND THE NUMBER OF SUCH INMATES WHO WERE GRANTED PAROLE, SEPARATELY STATING THE INFORMATION FOR THOSE CONVICTED OF A CLASS A FELONY, THOSE CONVICTED OF A VIOLENT FELONY OFFENSE, AS DEFINED IN SECTION 70.02 OF THE PENAL LAW, AND THOSE CONVICTED OF AN OFFENSE OTHER THAN A CLASS A FELONY OR A VIOLENT FELONY OFFENSE; AND FOR EACH INMATE WHO WAS RELEASED TO PAROLE BY THE BOARD, THE NAME OF THE INMATE, THE CRIME OR CRIMES OF CONVICTION, THE COUNTY OF CONVICTION, THE SENTENCE IMPOSED UPON SUCH INMATE AND THE AMOUNT OF SUCH SENTENCE WHICH HAS BEEN SERVED BY THE INMATE IN CONFINEMENT PRIOR TO RELEASE ON PAROLE. THE INITIAL REPORT REQUIRED BY THIS SUBDIVISION SHALL BE FOR THE PERIOD BEGINNING SEPTEMBER FIRST, TWO THOUSAND THIRTEEN AND ENDING DECEMBER THIRTY-FIRST, TWO THOUSAND THIRTEEN AND SHALL BE PRESENTED NO LATER THAN JANUARY THIRTY-FIRST, TWO THOUSAND FOURTEEN. THEREAFTER, EACH QUARTERLY REPORT SHALL BE PRESENTED NO LATER THAN THIRTY DAYS AFTER THE CLOSE OF EACH QUARTER.

S 2. Subparagraph (i) of paragraph (a) of subdivision 2 of section 259-i of the executive law, as amended by section 38-f-1 of subpart A of part C of chapter 62 of the laws of 2011, is amended to read as follows:

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

CRIMINAL PROCEDURE LAW, OR AT ANY OTHER TIME BY WRITTEN REQUEST TO THE BOARD OR BY REQUESTING SUCH NOTICE ON THE INTERNET WEBSITE OF THE BOARD AS PROVIDED IN SUBDIVISION EIGHTEEN OF SECTION TWO HUNDRED FIFTY-NINE-C OF THIS ARTICLE.

S 3. Paragraph (a) of subdivision 2 of section 259-i of the executive law, as amended by section 38-f-2 of subpart A of part C of chapter 62 of the laws of 2011, is amended to read as follows:

(a) At least one month prior to the expiration of the minimum period or periods of imprisonment fixed by the court or board, a member or members as determined by the rules of the board shall personally interview an inmate serving an indeterminate sentence and determine whether he OR SHE should be paroled at the expiration of the minimum period or periods in accordance with the procedures adopted pursuant to subdivision four of section two hundred fifty-nine-c OF THIS ARTICLE. NOTWITHSTANDING ANY OTHER LAW, RULE OR REGULATION TO THE CONTRARY, AN INMATE WHO IS CONVICTED OF A CLASS A FELONY MUST BE INTERVIEWED BY NOT LESS THAN THREE MEMBERS OF THE BOARD AND PAROLE SHALL NOT BE GRANTED TO SUCH INMATE EXCEPT UPON THE CONCURRENCE OF ALL OF THE MEMBERS WHO HAVE INTERVIEWED SUCH INMATE. If parole is not granted upon such review, the inmate shall be informed in writing within two weeks of such appearance of the factors and reasons for such denial of parole. Such reasons shall be given in detail and not in conclusory terms. The board shall specify a date not more than twenty-four months from such determination for reconsideration, and the procedures to be followed upon reconsideration shall be the same. If the inmate is released, he shall be given a copy of the conditions of parole. Such conditions shall where appropriate, include a requirement that the parolee comply with any restitution order and mandatory surcharge previously imposed by a court of competent jurisdiction that applies to the parolee. The conditions shall indicate which restitution collection agency established under subdivision eight of section 420.10 of the criminal procedure law, shall be responsible for collection of restitution and mandatory surcharge as provided for in section 60.35 of the penal law and section eighteen hundred nine of the vehicle and traffic law. NOT LESS THAN NINE MONTHS PRIOR TO THE DATE THAT AN INMATE WILL BE PERSONALLY INTERVIEWED BY THE MEMBERS OF THE BOARD, NOTICE OF THE DATE OF SUCH INTERVIEW SHALL BE GIVEN TO THE DISTRICT ATTORNEY OF THE COUNTY IN WHICH THE INMATE WAS CONVICTED; AND NOTICE OF THE DATE OF SUCH INTERVIEW AND A STATEMENT OF THE VICTIM'S RIGHTS UNDER SECTION 440.50 OF THE CRIMINAL PROCEDURE LAW SHALL BE GIVEN BY THE BOARD TO THE VICTIM, AS SUCH TERM IS DEFINED IN SUBDIVISION TWO OF SECTION 440.50 OF THE CRIMINAL PROCEDURE LAW, PROVIDED THAT THE VICTIM HAS REQUESTED SUCH NOTICE. THE VICTIM MAY REQUEST SUCH NOTICE IN THE MANNER PROVIDED BY SECTION 440.50 OF THE CRIMINAL PROCEDURE LAW, OR AT ANY OTHER TIME BY WRITTEN REQUEST TO THE BOARD OR BY REQUESTING SUCH NOTICE ON THE INTERNET WEBSITE OF THE BOARD AS PROVIDED IN SUBDIVISION EIGHTEEN OF SECTION TWO HUNDRED FIFTY-NINE-C OF THIS ARTICLE.

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

(g) the rights of crime victims to be aware of the defendant's incarceration status by providing the [division] BOARD of parole's contact information, including the [division's] BOARD'S toll-free telephone number, as provided for in subdivision two of section two hundred fifty-nine-i of this chapter, AND THE INTERNET WEB ADDRESS OF THE BOARD, AS PROVIDED BY SUBDIVISION EIGHTEEN OF SECTION TWO HUNDRED FIFTY-NINE-C OF THIS CHAPTER. Such notice shall advise the crime victim to use the

[division's] BOARD'S toll-free telephone number OR INTERNET WEBSITE to update contact information.

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

(a) subdivision 18 of section 259-c of the executive law, as added by section one of this act, and section four of this act shall take effect on the one hundred eightieth day after it shall have become a law, and effective immediately, any rules and regulations, and any other actions, necessary to implement such provisions of this act on their effective date are authorized and directed to be completed on or before such date; and

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