

STATE OF NEW YORK

6459

2023-2024 Regular Sessions

IN ASSEMBLY

April 11, 2023

Introduced by M. of A. McDONALD, BRABENEC -- read once and referred to the Committee on Codes

AN ACT to amend the criminal procedure law, in relation to allowing victim impact statements in New York state be video recorded; and to amend the executive law, in relation to requiring that the members of the parole board and all presiding commissioners for such hearing review all relevant victim impact statements prior to the conduct of a parole hearing

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Paragraph (b) of subdivision 3 of section 390.30 of the
2 criminal procedure law, as amended by chapter 618 of the laws of 1992,
3 is amended to read as follows:

4 (b) The report shall also contain a victim impact statement, unless it
5 appears that such information would be of no relevance to the recommen-
6 dation or court disposition, which shall include an analysis of the
7 victim's version of the offense, the extent of injury or economic loss
8 and the actual out-of-pocket loss to the victim and the views of the
9 victim relating to disposition including the amount of restitution and
10 reparation sought by the victim after the victim has been informed of
11 the right to seek restitution and reparation, subject to the availabili-
12 ty of such information. In the case of a homicide or where the victim is
13 unable to assist in the preparation of the victim impact statement, the
14 information may be acquired from the victim's family or representative.
15 The victim impact statement shall be made available to the victim by the
16 prosecutor pursuant to subdivision two of section 390.50 of this arti-
17 cle. Nothing contained in this section shall be interpreted to require
18 that a victim supply information for the preparation of this report.

19 § 2. Subdivision 1 of section 440.50 of the criminal procedure law, as
20 amended by chapter 322 of the laws of 2021, is amended to read as
21 follows:

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

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1 1. Upon the request of a victim of a crime, or in any event in all
2 cases in which the final disposition includes a conviction of a violent
3 felony offense as defined in section 70.02 of the penal law, a felony
4 defined in article one hundred twenty-five of such law, or a felony
5 defined in article one hundred thirty of such law, the district attorney
6 shall, within sixty days of the final disposition of the case, inform
7 the victim by letter of such final disposition. If such final disposi-
8 tion results in the commitment of the defendant to the custody of the
9 department of corrections and community supervision for an indeterminate
10 or combined sentence, the notice provided to the crime victim shall also
11 inform the victim of his or her right to submit a written, audiotaped,
12 or [~~videotaped~~] video recorded victim impact statement to the department
13 of corrections and community supervision or to meet [~~personally~~] in
14 person or by video conference with a member of the state board of parole
15 at a time and place separate from the personal interview between a
16 member or members of the board and the incarcerated individual and make
17 such a statement, subject to procedures and limitations contained in
18 rules of the board, both pursuant to subdivision two of section two
19 hundred fifty-nine-i of the executive law. A copy of such letter or
20 statement shall be provided to the board of parole and all presiding
21 commissioners for such hearing. The right of the victim under this
22 subdivision to submit a [~~written~~] victim impact statement in any format
23 or to meet [~~personally~~] in person or by video conference with a member
24 of the state board of parole applies to each personal interview between
25 a member or members of the board and the incarcerated individual.

26 § 3. Subdivision 2 of section 259-i of the executive law is amended by
27 adding a new paragraph (f) to read as follows:

28 (f) Prior to the conduct of any parole hearing as provided in this
29 article, the members of the board and all presiding commissioners for
30 such hearing shall review all victim impact statements relating to the
31 offense or offenses of which the incarcerated individual has been
32 convicted, including victim impact statements provided in connection
33 with the pre-sentencing report and victim impact statements provided
34 directly to the parole board. Failure to review statements as provided
35 in this section shall render such hearing invalid.

36 § 4. This act shall take effect on the ninetieth day after it shall
37 have become a law. Effective immediately the addition, amendment and/or
38 repeal of any rule or regulation necessary for the implementation of
39 this act on its effective date are authorized to be made and completed
40 on or before such date.