

STATE OF NEW YORK

1843

2025-2026 Regular Sessions

IN ASSEMBLY

January 14, 2025

Introduced by M. of A. CUNNINGHAM -- read once and referred to the
Committee on Correction

AN ACT to amend the executive law and the penal law, in relation to
authorizing early parole release for incarcerated individuals where
substance abuse was a significant contributing factor in the commis-
sion of the offense

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

1 Section 1. Section 259-i of the executive law is amended by adding a
2 new subdivision 10 to read as follows:

3 10. Early release for certain incarcerated individuals. (a) Notwith-
4 standing any other provision of law, where an incarcerated individual's
5 record reveals that substance abuse was a significant contributing
6 factor in the commission of such individual's offense and where such
7 individual has successfully completed a program of treatment within a
8 correctional facility for alcohol or substance abuse and has not been
9 disciplined by the department for drug, marihuana or alcohol use for a
10 minimum period of two years prior to the application for early release
11 pursuant to this subdivision, such individual shall be eligible for
12 early release to community supervision once such individual has
13 completed one-half of such individual's minimum period of incarceration,
14 provided that such individual is not serving a sentence for an A-I felo-
15 ny, other than an A-I felony pursuant to article two hundred twenty of
16 the penal law, or a violent felony offense pursuant to section 70.04 or
17 70.08 of the penal law. The department shall certify to the board that
18 an incarcerated individual is eligible for early release to community
19 supervision when such eligibility criteria are met.

20 (b) To determine whether substance abuse was a significant contribut-
21 ing factor in the commission of the offense, the board shall:

22 (i) rely on a finding that substance abuse was a significant contrib-
23 uting factor in the commission of the offense by the sentencing court;

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

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1 (ii) rely on a determination by the department based on a record
2 review once an incarcerated individual is otherwise eligible for early
3 release pursuant to paragraph (a) of this subdivision that the incarcer-
4 ated individual was abusing one or more substances at the time of the
5 commission of the crime and that such substance abuse appears to have
6 been a significant contributing factor in the commission of such
7 offense; or

8 (iii) make a finding that substance use was a significant contributing
9 factor in the commission of the crime when the incarcerated individual
10 is incarcerated with a conviction for any crime in which drug or alcohol
11 use or possession was an element.

12 Evidence in support of the determination that substance abuse was a
13 significant contributing factor in the commission of the offense may
14 include, but shall not be limited to, a court record, pre-sentence
15 report, social services record, hospital record, sworn statement of a
16 witness other than the incarcerated individual, local and state correc-
17 tional facility records, law enforcement records, any documentation
18 prepared at or near the time of the commission of the offense, or
19 verification of consultation with a licensed medical or mental health
20 professional, social worker or employee of an agency that provided
21 substance abuse treatment or counseling to the incarcerated individual.

22 (c) In determining whether to release an incarcerated individual to
23 early parole pursuant to this subdivision, the board shall apply the
24 factors listed in paragraph (c) of subdivision two of this section and
25 shall further consider any facts or circumstances submitted by the
26 applicant and may take witness testimony.

27 § 2. Subdivision 6 of section 60.04 of the penal law, as amended by
28 section 120 of subpart B of part C of chapter 62 of the laws of 2011, is
29 amended to read as follows:

30 6. Substance abuse treatment. When the court imposes a sentence of
31 imprisonment which requires a commitment to the state department of
32 corrections and community supervision upon a person who stands convicted
33 of a controlled substance or marihuana offense, the court may, upon
34 motion of the defendant in its discretion, make a finding that the
35 substance abuse was a significant contributing factor in the commission
36 of the offense and/or may issue an order directing that the department
37 of corrections and community supervision enroll the defendant in the
38 comprehensive alcohol and substance abuse treatment program in an alco-
39 hol and substance abuse correctional annex as defined in subdivision
40 eighteen of section two of the correction law, provided that the defend-
41 ant will satisfy the statutory eligibility criteria for participation in
42 such program. Notwithstanding the foregoing provisions of this subdivi-
43 sion, any defendant to be enrolled in such program pursuant to this
44 subdivision shall be governed by the same rules and regulations promul-
45 gated by the department of corrections and community supervision,
46 including without limitation those rules and regulations establishing
47 requirements for completion and those rules and regulations governing
48 discipline and removal from the program. No such period of court ordered
49 corrections based drug abuse treatment pursuant to this subdivision
50 shall be required to extend beyond the defendant's conditional release
51 date.

52 § 3. This act shall take effect on the one hundred twentieth day after
53 it shall have become a law.