

STATE OF NEW YORK

846

2025-2026 Regular Sessions

IN SENATE

(Prefiled)

January 8, 2025

Introduced by Sens. GALLIVAN, HELMING, MATTERA, OBERACKER, PALUMBO, STEC, TEDISCO, WEIK -- 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 and the criminal procedure law, in relation to statements to the state board of parole

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

1 Section 1. Subparagraph (A) of paragraph (c) of subdivision 2 of
2 section 259-i of the executive law, as amended by chapter 322 of the
3 laws of 2021, is amended to read as follows:
4 (A) Discretionary release on parole shall not be granted merely as a
5 reward for good conduct or efficient performance of duties while
6 confined but after considering if there is a reasonable probability
7 that, if such incarcerated individual is released, [~~he or she~~] such
8 incarcerated individual will live and remain at liberty without violat-
9 ing the law, and that [~~his or her~~] their release is not incompatible
10 with the welfare of society and will not so deprecate the seriousness of
11 [~~his or her~~] their crime as to undermine respect for law. In making the
12 parole release decision, the procedures adopted pursuant to subdivision
13 four of section two hundred fifty-nine-c of this article shall require
14 that the following be considered: (i) the institutional record including
15 program goals and accomplishments, academic achievements, vocational
16 education, training or work assignments, therapy and interactions with
17 staff and incarcerated individuals; (ii) performance, if any, as a
18 participant in a temporary release program; (iii) release plans includ-
19 ing community resources, employment, education and training and support
20 services available to the incarcerated individual; (iv) any deportation
21 order issued by the federal government against the incarcerated individ-
22 ual while in the custody of the department and any recommendation

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

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1 regarding deportation made by the commissioner of the department pursu-
2 ant to section one hundred forty-seven of the correction law; (v) any
3 current or prior statement made to the board by the crime victim or the
4 victim's representative, where the crime victim is deceased or is
5 mentally or physically incapacitated; (vi) any statement in support or
6 opposition made to the board by a third party; (vii) the length of the
7 determinate sentence to which the incarcerated individual would be
8 subject had [~~he or she~~] such incarcerated individual received a sentence
9 pursuant to section 70.70 or section 70.71 of the penal law for a felony
10 defined in article two hundred twenty or article two hundred twenty-one
11 of the penal law; [~~(vii)~~] (viii) the seriousness of the offense with due
12 consideration to the type of sentence, length of sentence and recommen-
13 dations of the sentencing court, the district attorney, the attorney for
14 the incarcerated individual, the pre-sentence probation report as well
15 as consideration of any mitigating and aggravating factors, and activ-
16 ities following arrest prior to confinement; and [~~(viii)~~] (ix) prior
17 criminal record, including the nature and pattern of offenses, adjust-
18 ment to any previous probation or parole supervision and institutional
19 confinement. The board shall provide toll free telephone access for
20 crime victims. In the case of an oral statement made in accordance with
21 subdivision one of section 440.50 of the criminal procedure law, the
22 parole board member shall present a written report of the statement to
23 the parole board. A crime victim's representative shall mean the crime
24 victim's closest surviving relative, the committee or guardian of such
25 person, or the legal representative of any such person. Such statement
26 submitted by the victim or victim's representative may include informa-
27 tion concerning threatening or intimidating conduct toward the victim,
28 the victim's representative, or the victim's family, made by the person
29 sentenced and occurring after the sentencing. Such information may
30 include, but need not be limited to, the threatening or intimidating
31 conduct of any other person who or which is directed by the person
32 sentenced. Any statement by a victim or the victim's representative made
33 to the board shall be maintained by the department in the file provided
34 to the board when interviewing the incarcerated individual in consider-
35 ation of release. A victim or victim's representative who has submitted
36 a written request to the department for the transcript of such interview
37 shall be provided such transcript as soon as it becomes available.

38 § 2. Subparagraph (B) of paragraph (c) of subdivision 2 of section
39 259-i of the executive law, as amended by chapter 322 of the laws of
40 2021, is amended to read as follows:

41 (B) Where a crime victim or victim's representative as defined in
42 subparagraph (A) of this paragraph, [~~or other person~~] submits to the
43 parole board a written statement concerning the release of an incarcer-
44 ated individual, such statement shall be deemed confidential and shall
45 only be made available to the parole board [~~shall keep that individual's~~
46 ~~name and address confidential~~] for use in rendering parole decisions.

47 § 3. Subdivision 1 of section 440.50 of the criminal procedure law, as
48 amended by chapter 322 of the laws of 2021, is amended to read as
49 follows:

50 1. Upon the request of a victim of a crime, or in any event in all
51 cases in which the final disposition includes a conviction of a violent
52 felony offense as defined in section 70.02 of the penal law, a felony
53 defined in article one hundred twenty-five of such law, or a felony
54 defined in article one hundred thirty of such law, the district attorney
55 shall, within sixty days of the final disposition of the case, inform
56 the victim by letter of such final disposition. If such final disposi-

1 tion results in the commitment of the defendant to the custody of the
2 department of corrections and community supervision for an indeterminate
3 sentence, the notice provided to the crime victim shall also inform the
4 victim of [~~his or her~~] the right to submit a written, audiotaped, or
5 videotaped victim impact statement to the department of corrections and
6 community supervision or to meet personally with a member of the state
7 board of parole at a time and place separate from the personal interview
8 between a member or members of the board and the incarcerated individual
9 and make such a statement, subject to procedures and limitations
10 contained in rules of the board, both pursuant to subdivision two of
11 section two hundred fifty-nine-i of the executive law. Such notice shall
12 inform the victim that a written, audiotaped, or videotaped victim
13 impact statement shall be deemed confidential and shall only be made
14 available to the state board of parole for use in rendering parole deci-
15 sions. A copy of such letter shall be provided to the board of parole.
16 The right of the victim under this subdivision to submit a [~~written~~]
17 victim impact statement or to meet personally with a member of the state
18 board of parole applies to each personal interview between a member or
19 members of the board and the incarcerated individual.

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