

3312

2009-2010 Regular Sessions

I N   A S S E M B L Y

January 26, 2009

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Introduced by M. of A. ENGLEBRIGHT, SWEENEY, ORTIZ, EDDINGTON, MAYERSOHN  
-- Multi-Sponsored by -- M. of A. COLTON, HOOPER, KOON -- read once  
and referred to the Committee on Governmental Operations

AN ACT to amend the executive law, in relation to prohibiting release of  
inmates convicted of a crime of driving while intoxicated until victim  
has had notice and the opportunity to make a victim impact statement

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

1     Section 1. Subdivision 1 of section 259-c of the executive law, as  
2     amended by chapter 3 of the laws of 1995, is amended to read as follows:  
3     1. have the power and duty of determining which inmates serving an  
4     indeterminate or determinate sentence of imprisonment may be released on  
5     parole, or on medical parole pursuant to section two hundred  
6     fifty-nine-r of this article, and when and under what conditions;  
7     PROVIDED, HOWEVER, THAT ANY SUCH INMATE SERVING A TERM OF AT LEAST ONE  
8     YEAR FOR A FELONY CONVICTION THAT INCLUDES A VIOLATION OF SECTION ELEVEN  
9     HUNDRED NINETY-TWO OF THE VEHICLE AND TRAFFIC LAW SHALL NOT BE RELEASED  
10    ON PAROLE UNLESS THE VICTIM OR VICTIM'S REPRESENTATIVE, AS DEFINED IN  
11    SECTION TWO HUNDRED FIFTY-NINE-I OF THIS ARTICLE, SHALL HAVE BEEN  
12    CONSULTED WITH AND GIVEN A REASONABLE OPPORTUNITY TO MAKE A VICTIM  
13    IMPACT STATEMENT PURSUANT TO SECTION 440.50 OF THE CRIMINAL PROCEDURE  
14    LAW;

15    S 2. Subdivision 1 of section 259-c of the executive law, as added by  
16    chapter 904 of the laws of 1977 and as amended by chapter 3 of the laws  
17    of 1995, is amended to read as follows:

18    1. have the power and duty of determining which inmates serving an  
19    indeterminate or a reformatory or determinate sentence of imprisonment  
20    may be released on parole and when and under what conditions; PROVIDED,  
21    HOWEVER, THAT ANY SUCH INMATE SERVING A TERM OF AT LEAST ONE YEAR FOR A  
22    FELONY CONVICTION THAT INCLUDES A VIOLATION OF SECTION ELEVEN HUNDRED  
23    NINETY-TWO OF THE VEHICLE AND TRAFFIC LAW SHALL NOT BE RELEASED ON

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

LBD06952-01-9

1 PAROLE UNLESS THE VICTIM OR VICTIM'S REPRESENTATIVE, AS DEFINED IN  
2 SECTION TWO HUNDRED FIFTY-NINE-I OF THIS ARTICLE, SHALL HAVE BEEN  
3 CONSULTED WITH AND GIVEN A REASONABLE OPPORTUNITY TO MAKE A VICTIM  
4 IMPACT STATEMENT PURSUANT TO SECTION 440.50 OF THE CRIMINAL PROCEDURE  
5 LAW;

6 S 3. Subdivision 1 of section 259-c of the executive law, as added by  
7 chapter 904 of the laws of 1977, is amended to read as follows:

8 1. have the power and duty of determining which inmates serving an  
9 indeterminate or a reformatory sentence of imprisonment may be released  
10 on parole and when and under what conditions; PROVIDED, HOWEVER, THAT  
11 ANY SUCH INMATE SERVING A TERM OF AT LEAST ONE YEAR FOR A FELONY  
12 CONVICTION THAT INCLUDES A VIOLATION OF SECTION ELEVEN HUNDRED  
13 NINETY-TWO OF THE VEHICLE AND TRAFFIC LAW SHALL NOT BE RELEASED ON  
14 PAROLE UNLESS THE VICTIM OR VICTIM'S REPRESENTATIVE, AS DEFINED IN  
15 SECTION TWO HUNDRED FIFTY-NINE-I OF THIS ARTICLE, SHALL HAVE BEEN  
16 CONSULTED WITH AND GIVEN A REASONABLE OPPORTUNITY TO MAKE A VICTIM  
17 IMPACT STATEMENT PURSUANT TO SECTION 440.50 OF THE CRIMINAL PROCEDURE  
18 LAW;

19 S 4. This act shall take effect immediately and shall apply to  
20 violations of section 1192 of the vehicle and traffic law committed on  
21 or after such date; provided that the amendments to subdivision 1 of  
22 section 259-c of the executive law, made by section one of this act,  
23 shall not affect the expiration of such subdivision, pursuant to chapter  
24 55 of the laws of 1992, and shall be deemed repealed therewith, whereup-  
25 on section two of this act shall take effect; provided, further, that  
26 the amendments to subdivision 1 of section 259-c of the executive law,  
27 made by section two of this act, shall not affect the repeal of such  
28 subdivision, pursuant to chapter 3 of the laws of 1995, and shall be  
29 deemed repealed therewith, whereupon section three of this act shall  
30 take effect.