

2672

2009-2010 Regular Sessions

I N S E N A T E

February 26, 2009

Introduced by Sens. MORAHAN, LARKIN, PADAVAN -- 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, in relation to requiring a detailed written explanation for the release of an inmate from prison

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

1 Section 1. Paragraph (a) of subdivision 2 of section 259-i of the  
2 executive law, as separately amended by section 11 of part E and section  
3 9 of part F of chapter 62 of the laws of 2003, is amended to read as  
4 follows:

5 (a) (i) Except as provided in subparagraph (ii) of this paragraph, at  
6 least one month prior to the date on which an inmate may be paroled  
7 pursuant to subdivision one of section 70.40 of the penal law, a member  
8 or members as determined by the rules of the board shall personally  
9 interview such inmate and determine whether he should be paroled in  
10 accordance with the guidelines adopted pursuant to subdivision four of  
11 section two hundred fifty-nine-c of this article. If parole is not  
12 granted upon such review, the inmate shall be informed in writing within  
13 two weeks of such appearance of the factors and reasons for such denial  
14 of parole. Such reasons shall be given in detail and not in conclusory  
15 terms. The board shall specify a date not more than twenty-four months  
16 from such determination for reconsideration, and the procedures to be  
17 followed upon reconsideration shall be the same. IF PAROLE IS GRANTED  
18 UPON SUCH REVIEW, THE PAROLE BOARD SHALL PREPARE WITHIN ONE WEEK OF THE  
19 DETERMINATION TO GRANT PAROLE A WRITTEN EXPLANATION OF THE FACTORS AND  
20 REASONS FOR THE BOARD'S DECISION. SUCH REASON SHALL BE GIVEN IN DETAIL  
21 AND NOT IN CONCLUSORY TERMS. If the inmate is released, he OR SHE shall  
22 be given a copy of the conditions of parole. Such conditions shall where  
23 appropriate, include a requirement that the parolee comply with any  
24 restitution order, mandatory surcharge, sex offender registration fee

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

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1 and DNA databank fee previously imposed by a court of competent juris-  
2 diction that applies to the parolee. The board of parole shall indicate  
3 which restitution collection agency established under subdivision eight  
4 of section 420.10 of the criminal procedure law, shall be responsible  
5 for collection of restitution, mandatory surcharge, sex offender regis-  
6 tration fees and DNA databank fees as provided for in section 60.35 of  
7 the penal law and section eighteen hundred nine of the vehicle and traf-  
8 fic law.

9 (ii) Any inmate who is scheduled for presumptive release pursuant to  
10 section eight hundred six of the correction law shall not appear before  
11 the parole board as provided in subparagraph (i) of this paragraph  
12 unless such inmate's scheduled presumptive release is forfeited,  
13 canceled, or rescinded subsequently as provided in such law. In such  
14 event, the inmate shall appear before the parole board for release  
15 consideration as provided in subparagraph (i) of this paragraph as soon  
16 thereafter as is practicable.

17 S 2. Paragraph (a) of subdivision 2 of section 259-i of the executive  
18 law, as amended by chapter 396 of the laws of 1987, is amended to read  
19 as follows:

20 (a) At least one month prior to the expiration of the minimum period  
21 or periods of imprisonment fixed by the court or board, a member or  
22 members as determined by the rules of the board shall personally inter-  
23 view an inmate serving an indeterminate sentence and determine whether  
24 he should be paroled at the expiration of the minimum period or periods  
25 in accordance with the guidelines adopted pursuant to subdivision four  
26 of section two hundred fifty-nine-c OF THIS ARTICLE. If parole is not  
27 granted upon such review, the inmate shall be informed in writing within  
28 two weeks of such appearance of the factors and reasons for such denial  
29 of parole. Such reasons shall be given in detail and not in conclusory  
30 terms. The board shall specify a date not more than twenty-four months  
31 from such determination for reconsideration, and the procedures to be  
32 followed upon reconsideration shall be the same. IF PAROLE IS GRANTED  
33 UPON SUCH REVIEW, THE PAROLE BOARD SHALL PREPARE WITHIN ONE WEEK OF THE  
34 DETERMINATION TO GRANT PAROLE A WRITTEN EXPLANATION OF THE FACTORS AND  
35 REASONS FOR THE BOARD'S DECISION. SUCH REASONS SHALL BE GIVEN IN DETAIL  
36 AND NOT IN CONCLUSORY TERMS. If the inmate is released, he OR SHE shall  
37 be given a copy of the conditions of parole. Such conditions shall where  
38 appropriate, include a requirement that the parolee comply with any  
39 restitution order and mandatory surcharge previously imposed by a court  
40 of competent jurisdiction that applies to the parolee. The board of  
41 parole shall indicate which restitution collection agency established  
42 under subdivision eight of section 420.10 of the criminal procedure law,  
43 shall be responsible for collection of restitution and mandatory  
44 surcharge as provided for in section 60.35 of the penal law and section  
45 eighteen hundred nine of the vehicle and traffic law.

46 S 3. This act shall take effect immediately; provided, however, that  
47 the amendments to paragraph (a) of subdivision 2 of section 259-i of the  
48 executive law made by section one of this act shall not affect the expi-  
49 ration and reversion of such paragraph as provided in subdivision d of  
50 section 74 of chapter 3 of the laws of 1995, as amended, when upon such  
51 date the provisions of section two of this act shall take effect.