S T A T E O F N E W Y O R K

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:

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

(a) (i) Except as provided in subparagraph (ii) of this paragraph, at least one month prior to the date on which an inmate may be paroled pursuant to subdivision one of section 70.40 of the penal law, a member or members as determined by the rules of the board shall personally interview such inmate and determine whether he should be paroled in accordance with the guidelines adopted pursuant to subdivision four of section two hundred fifty-nine-c of this article. If parole is not granted upon such review, the inmate shall be informed in writing within two weeks of such appearance of the factors and reasons for such denial of parole. Such reasons shall be given in detail and not in conclusory terms. The board shall specify a date not more than twenty-four months from such determination for reconsideration, and the procedures to be followed upon reconsideration shall be the same. IF PAROLE IS GRANTED UPON SUCH REVIEW, THE PAROLE BOARD SHALL PREPARE WITHIN ONE WEEK OF THE DETERMINATION TO GRANT PAROLE A WRITTEN EXPLANATION OF THE FACTORS AND REASONS FOR THE BOARD'S DECISION. SUCH REASON SHALL BE GIVEN IN DETAIL AND NOT IN CONCLUSORY TERMS. If the inmate is released, he OR SHE shall be given a copy of the conditions of parole. Such conditions shall where appropriate, include a requirement that the parolee comply with any 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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and DNA databank fee previously imposed by a court of competent jurisdiction that applies to the parolee. The board of parole shall indicate which restitution collection agency established under subdivision eight of section 420.10 of the criminal procedure law, shall be responsible for collection of restitution, mandatory surcharge, sex offender registration fees and DNA databank fees as provided for in section 60.35 of the penal law and section eighteen hundred nine of the vehicle and traffic law.

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

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

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

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