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

3320

2009-2010 Regular Sessions

I N S E N A T E

March 16, 2009

Introduced by Sen. OPPENHEIMER -- 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 including certain information regarding abuse by victims of crime in determination of minimum period of incarceration

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

Section 1. Paragraph (a) of subdivision 1 of section 259-i of the executive law, as added by chapter 904 of the laws of 1977, is amended to read as follows:

(a) In any case where a person is received in an institution under the jurisdiction of the department of correctional services with an indeterminate sentence, and the court has not fixed a minimum period of imprisonment, the board shall cause to be brought before one or more members in accordance with the rules of the board within one hundred twenty days from the date on which such person is received in an institution under the jurisdiction of the department of correctional services pursuant to such sentence or as soon thereafter as practicable, all information with regard to such persons referred to in subdivision three of section two hundred fifty-nine-c of this article. The member or members receiving such information shall study the same and shall personally interview the sentenced person. Upon conclusion of the interview, he shall determine the minimum period of imprisonment to be served prior to parole consideration in accordance with the guidelines adopted pursuant to subdivision four of section two hundred fifty-nine-c of this article. Such guidelines shall include (i) the seriousness of the offense with due consideration to the type of sentence, length of sentence and recommendations of the sentencing court, the district attorney, the attorney for the inmate, the pre-sentence probation report as well as consideration of any mitigating and aggravating factors, INCLUDING A HISTORY OF

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

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VIOLENCE OR ABUSE DIRECTED AT THE SENTENCED PERSON BY THE VICTIM OF THE OFFENSE, and activities following arrest and prior to confinement; and (ii) prior criminal record, including the nature and pattern of offenses, adjustment to any previous probation or parole supervision and institutional confinement. Such determination shall have the same force and effect as a minimum period fixed by a court, except that the board may provide by rule for the making of subsequent determinations reducing such minimum period which shall not be reduced to less than one year. Notification of such determination and of any subsequent determinations and of the reasons therefor shall be furnished in writing to the sentenced person and to the person in charge of the institution as soon as practicable. Such reasons shall be given in detail and not in conclusory terms.

S 2. This act shall take effect immediately.