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

S. 1448 A. 1401

2011-2012 Regular Sessions

S E N A T E - A S S E M B L Y

January 7, 2011

IN SENATE -- Introduced by Sen. LAVALLE -- read twice and ordered printed, and when printed to be committed to the Committee on Crime Victims, Crime and Correction

IN ASSEMBLY -- Introduced by M. of A. THIELE -- read once and referred to the Committee on Correction

AN ACT to amend the executive law, in relation to requiring inmates to have an acceptable residence to qualify for parole

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

Section 1. Subparagraph (A) of paragraph (c) of subdivision 2 of section 259-i of the executive law, as amended by section 12 of part AAA of chapter 56 of the laws of 2009, is amended to read as follows:

(A) Discretionary release on parole shall not be granted merely as a reward for good conduct or efficient performance of duties while confined but after considering if there is a reasonable probability that, if such inmate is released, he will live and remain at liberty without violating the law, and that his release is not incompatible with the welfare of society and will not so deprecate the seriousness of his crime as to undermine respect for law. In making the parole release decision, the guidelines adopted pursuant to subdivision four of section two hundred fifty-nine-c of this article shall require that the following be considered: (i) the institutional record including program goals and accomplishments, academic achievements, vocational education, training or work assignments, therapy and interpersonal relationships with staff and inmates; (ii) performance, if any, as a participant in a temporary release program; (iii) release plans [including] SHALL INCLUDE, IN ADDITION TO community resources, employment, education and training and support services available to the inmate, AN ACCEPTABLE RESIDENCE. IN ORDER FOR A RESIDENCE TO BE AN ACCEPTABLE RESIDENCE AND QUALIFY THE INMATE FOR PAROLE RELEASE, SUCH RESIDENCE SHALL BE A PERMA-

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

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NENT RESIDENCE, AND NOT A TEMPORARY SHELTER INCLUDING, BUT NOT LIMITED TO, A HOMELESS SHELTER, MOTEL/HOTEL, OR TRAILER, AND SHALL ALLOW THE INMATE TO COMPLY WITH ALL STATE AND LOCAL LAWS AND REGULATIONS REGARDING PLACEMENT OF REGISTERED SEX OFFENDERS; (iv) any deportation order issued by the federal government against the inmate while in the custody of the department of correctional services and any recommendation regarding deportation made by the commissioner of the department of correctional services pursuant to section one hundred forty-seven of the correction law; (v) any statement made to the board by the crime victim or the victim's representative, where the crime victim is deceased or is mentally or physically incapacitated; and (vi) the length of the determinate sentence to which the inmate would be subject had he or she received a sentence pursuant to section 70.70 or section 70.71 of the penal law for a felony defined in article two hundred twenty or article two hundred twenty-one of the penal law. The board shall provide toll free telephone access for crime victims. In the case of an oral statement made in accordance with subdivision one of section 440.50 of the criminal procedure law, the parole board member shall present a written report of the statement to the parole board. A crime victim's representative shall mean the crime victim's closest surviving relative, the committee or guardian of such person, or the legal representative of any such person. Such statement submitted by the victim or victim's representative may include information concerning threatening or intimidating conduct toward the victim, the victim's representative, or the victim's family, made by the person sentenced and occurring after the sentencing. Such information may include, but need not be limited to, the threatening or intimidating conduct of any other person who or which is directed by the person sentenced. Notwithstanding the provisions of this section, in making the parole release decision for persons whose minimum period of imprisonment was not fixed pursuant to the provisions of subdivision one of this section, in addition to the factors listed in this paragraph the board shall consider the factors listed in paragraph (a) of subdivision one of this section.

S 2. This act shall take effect immediately.