

5302

2011-2012 Regular Sessions

I N S E N A T E

May 3, 2011

Introduced by Sen. BALL -- 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 extending the period of time between parole eligibility for certain inmates

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

1 Section 1. Subparagraph (i) of paragraph (a) of subdivision 2 of
2 section 259-i of the executive law, as amended by section 38-f-1 of
3 subpart A of part C of chapter 62 of the laws of 2011, is amended and a
4 new subparagraph (iii) is added to read as follows:
5 (i) Except as provided in [subparagraph] SUBPARAGRAPHS (ii) AND (III)
6 of this paragraph, at least one month prior to the date on which an
7 inmate may be paroled pursuant to subdivision one of section 70.40 of
8 the penal law, a member or members as determined by the rules of the
9 board shall personally interview such inmate and determine whether he
10 should be paroled in accordance with the guidelines adopted pursuant to
11 subdivision four of section two hundred fifty-nine-c of this article. If
12 parole is not granted upon such review, the inmate shall be informed in
13 writing within two weeks of such appearance of the factors and reasons
14 for such denial of parole. Such reasons shall be given in detail and not
15 in conclusory terms. The board shall specify a date not more than twenty-four
16 months from such determination for reconsideration, and the
17 procedures to be followed upon reconsideration shall be the same. If the
18 inmate is released, he shall be given a copy of the conditions of
19 parole. Such conditions shall where appropriate, include a requirement
20 that the parolee comply with any restitution order, mandatory surcharge,
21 sex offender registration fee and DNA databank fee previously imposed by
22 a court of competent jurisdiction that applies to the parolee. The
23 conditions shall indicate which restitution collection agency established
24 under subdivision eight of section 420.10 of the criminal procedure

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

LBD11383-02-1

1 dure law, shall be responsible for collection of restitution, mandatory
2 surcharge, sex offender registration fees and DNA databank fees as
3 provided for in section 60.35 of the penal law and section eighteen
4 hundred nine of the vehicle and traffic law.

5 (III) IN THE CASE OF ANY INMATE WHO IS INCARCERATED FOR ANY OFFENSE
6 DEFINED IN TITLE H OF THE PENAL LAW WHERE A POLICE OFFICER, AS SUCH TERM
7 IS DEFINED IN SECTION EIGHT HUNDRED THIRTY-FIVE OF THIS CHAPTER, OR A
8 CORRECTION OFFICER, AS SUCH TERM IS USED IN THE CORRECTION LAW, IS THE
9 VICTIM OF SUCH OFFENSE, AT LEAST ONE MONTH PRIOR TO THE DATE ON WHICH
10 SUCH INMATE MAY BE PAROLED PURSUANT TO SUBDIVISION ONE OF SECTION 70.40
11 OF THE PENAL LAW, A MEMBER OR MEMBERS AS DETERMINED BY THE RULES OF THE
12 BOARD SHALL PERSONALLY INTERVIEW SUCH INMATE AND DETERMINE WHETHER HE OR
13 SHE SHOULD BE PAROLED IN ACCORDANCE WITH THE GUIDELINES ADOPTED PURSUANT
14 TO SUBDIVISION FOUR OF SECTION TWO HUNDRED FIFTY-NINE-C OF THIS ARTICLE.
15 IF PAROLE IS NOT GRANTED UPON SUCH REVIEW, THE INMATE SHALL BE INFORMED
16 IN WRITING WITHIN TWO WEEKS OF SUCH APPEARANCE OF THE FACTORS AND
17 REASONS FOR SUCH DENIAL OF PAROLE. SUCH REASONS SHALL BE GIVEN IN DETAIL
18 AND NOT IN CONCLUSORY TERMS. THE BOARD SHALL SPECIFY A DATE NOT MORE
19 THAN FORTY-EIGHT MONTHS FROM SUCH DETERMINATION FOR RECONSIDERATION, AND
20 THE PROCEDURES TO BE FOLLOWED UPON RECONSIDERATION SHALL BE THE SAME. IF
21 SUCH INMATE IS RELEASED, HE OR SHE SHALL BE GIVEN A COPY OF THE CONDI-
22 TIONS OF PAROLE. SUCH CONDITIONS SHALL, WHERE APPROPRIATE, INCLUDE A
23 REQUIREMENT THAT THE PAROLEE COMPLY WITH ANY RESTITUTION ORDER, MANDATO-
24 RY SURCHARGE, SEX OFFENDER REGISTRATION FEE AND DNA DATABANK FEE PREVI-
25 OUSLY IMPOSED BY A COURT OF COMPETENT JURISDICTION THAT APPLIES TO THE
26 PAROLEE. THE CONDITIONS SHALL INDICATE WHICH RESTITUTION COLLECTION
27 AGENCY ESTABLISHED UNDER SUBDIVISION EIGHT OF SECTION 420.10 OF THE
28 CRIMINAL PROCEDURE LAW, SHALL BE RESPONSIBLE FOR COLLECTION OF RESTITU-
29 TION, MANDATORY SURCHARGE, SEX OFFENDER REGISTRATION FEES AND DNA DATA-
30 BANK FEES AS PROVIDED FOR IN SECTION 60.35 OF THE PENAL LAW AND SECTION
31 EIGHTEEN HUNDRED NINE OF THE VEHICLE AND TRAFFIC LAW.

32 S 2. Paragraph (a) of subdivision 2 of section 259-i of the executive
33 law, as amended by section 38-f-2 of subpart A of part C of chapter 62
34 of the laws of 2011, is amended to read as follows:

35 (a) [At] (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARA-
36 GRAPH, AT least one month prior to the expiration of the minimum period
37 or periods of imprisonment fixed by the court or board, a member or
38 members as determined by the rules of the board shall personally inter-
39 view an inmate serving an indeterminate sentence and determine whether
40 he should be paroled at the expiration of the minimum period or periods
41 in accordance with the procedures adopted pursuant to subdivision four
42 of section two hundred fifty-nine-c. If parole is not granted upon such
43 review, the inmate shall be informed in writing within two weeks of such
44 appearance of the factors and reasons for such denial of parole. Such
45 reasons shall be given in detail and not in conclusory terms. The board
46 shall specify a date not more than twenty-four months from such determi-
47 nation for reconsideration, and the procedures to be followed upon
48 reconsideration shall be the same. If the inmate is released, he shall
49 be given a copy of the conditions of parole. Such conditions shall where
50 appropriate, include a requirement that the parolee comply with any
51 restitution order and mandatory surcharge previously imposed by a court
52 of competent jurisdiction that applies to the parolee. The conditions
53 shall indicate which restitution collection agency established under
54 subdivision eight of section 420.10 of the criminal procedure law, shall
55 be responsible for collection of restitution and mandatory surcharge as

1 provided for in section 60.35 of the penal law and section eighteen
2 hundred nine of the vehicle and traffic law.

3 (II) IN THE CASE OF ANY INMATE WHO IS INCARCERATED FOR ANY OFFENSE
4 DEFINED IN TITLE H OF THE PENAL LAW WHERE A POLICE OFFICER, AS SUCH TERM
5 IS DEFINED IN SECTION EIGHT HUNDRED THIRTY-FIVE OF THIS CHAPTER, OR A
6 CORRECTION OFFICER, AS SUCH TERM IS USED IN THE CORRECTION LAW, IS THE
7 VICTIM OF SUCH OFFENSE, AT LEAST ONE MONTH PRIOR TO THE DATE ON WHICH
8 SUCH INMATE MAY BE PAROLED PURSUANT TO SUBDIVISION ONE OF SECTION 70.40
9 OF THE PENAL LAW, A MEMBER OR MEMBERS AS DETERMINED BY THE RULES OF THE
10 BOARD SHALL PERSONALLY INTERVIEW SUCH INMATE AND DETERMINE WHETHER HE OR
11 SHE SHOULD BE PAROLED IN ACCORDANCE WITH THE GUIDELINES ADOPTED PURSUANT
12 TO SUBDIVISION FOUR OF SECTION TWO HUNDRED FIFTY-NINE-C OF THIS ARTICLE.
13 IF PAROLE IS NOT GRANTED UPON SUCH REVIEW, THE INMATE SHALL BE INFORMED
14 IN WRITING WITHIN TWO WEEKS OF SUCH APPEARANCE OF THE FACTORS AND
15 REASONS FOR SUCH DENIAL OF PAROLE. SUCH REASONS SHALL BE GIVEN IN DETAIL
16 AND NOT IN CONCLUSORY TERMS. THE BOARD SHALL SPECIFY A DATE NOT MORE
17 THAN FORTY-EIGHT MONTHS FROM SUCH DETERMINATION FOR RECONSIDERATION, AND
18 THE PROCEDURES TO BE FOLLOWED UPON RECONSIDERATION SHALL BE THE SAME. IF
19 SUCH INMATE IS RELEASED, HE OR SHE SHALL BE GIVEN A COPY OF THE CONDI-
20 TIONS OF PAROLE. SUCH CONDITIONS SHALL, WHERE APPROPRIATE, INCLUDE A
21 REQUIREMENT THAT THE PAROLEE COMPLY WITH ANY RESTITUTION ORDER, MANDATO-
22 RY SURCHARGE, SEX OFFENDER REGISTRATION FEE AND DNA DATABANK FEE PREVI-
23 OUSLY IMPOSED BY A COURT OF COMPETENT JURISDICTION THAT APPLIES TO THE
24 PAROLEE. THE CONDITIONS SHALL INDICATE WHICH RESTITUTION COLLECTION
25 AGENCY ESTABLISHED UNDER SUBDIVISION EIGHT OF SECTION 420.10 OF THE
26 CRIMINAL PROCEDURE LAW, SHALL BE RESPONSIBLE FOR COLLECTION OF RESTITU-
27 TION, MANDATORY SURCHARGE, SEX OFFENDER REGISTRATION FEES AND DNA DATA-
28 BANK FEES AS PROVIDED FOR IN SECTION 60.35 OF THE PENAL LAW AND SECTION
29 EIGHTEEN HUNDRED NINE OF THE VEHICLE AND TRAFFIC LAW.

30 S 3. This act shall take effect on the first of November next succeed-
31 ing the date on which it shall have become a law; provided, however,
32 that the amendments to paragraph (a) of subdivision 2 of section 259-i
33 of the executive law, made by section one of this act shall be subject
34 to the expiration and reversion of such paragraph pursuant to section 74
35 of chapter 3 of the laws of 1995, as amended, when upon such date the
36 provisions of section two of this act shall take effect.