

9328

I N A S S E M B L Y

February 16, 2012

Introduced by M. of A. SIMANOWITZ -- read once and referred to the
Committee on Governmental Operations

AN ACT to amend the executive law and the criminal procedure law, in
relation to victims' rights to parole information and notice of crime
disposition

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

1 Section 1. Paragraph (a) of subdivision 2 of section 259-i of the
2 executive law, as amended by section 38-f-1 of subpart A of part C of
3 chapter 62 of the laws of 2011, is amended to read as follows:
4 (a) (i) Except as provided in subparagraph (ii) of this paragraph, at
5 least one month prior to the date on which an inmate may be paroled
6 pursuant to subdivision one of section 70.40 of the penal law, a member
7 or members as determined by the rules of the board shall personally
8 interview such inmate and determine whether he should be paroled in
9 accordance with the guidelines adopted pursuant to subdivision four of
10 section two hundred fifty-nine-c of this article. If parole is not
11 granted upon such review, the inmate shall be informed in writing within
12 two weeks of such appearance of the factors and reasons for such denial
13 of parole. Such reasons shall be given in detail and not in conclusory
14 terms. The board shall specify a date not more than twenty-four months
15 from such determination for reconsideration, and the procedures to be
16 followed upon reconsideration shall be the same. If the inmate is
17 released, he shall be given a copy of the conditions of parole. Such
18 conditions shall where appropriate, include a requirement that the paro-
19 lee comply with any restitution order, mandatory surcharge, sex offender
20 registration fee and DNA databank fee previously imposed by a court of
21 competent jurisdiction that applies to the parolee. The conditions shall
22 indicate which restitution collection agency established under subdivi-
23 sion eight of section 420.10 of the criminal procedure law, shall be
24 responsible for collection of restitution, mandatory surcharge, sex
25 offender registration fees and DNA databank fees as provided for in
26 section 60.35 of the penal law and section eighteen hundred nine of the
27 vehicle and traffic law. IF PAROLE IS GRANTED, A STATEMENT OF THE

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

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1 REASONS FOR GRANTING PAROLE SHALL BE STATED IN WRITING AND SHALL BE
2 PROVIDED, WITHIN A REASONABLE TIME AFTER SUCH DECISION, TO A VICTIM OR
3 VICTIM'S REPRESENTATIVE WHO HAS FILED A STATEMENT PURSUANT TO PARAGRAPH
4 (C) OF THIS SUBDIVISION.

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

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

16 (a) At least one month prior to the expiration of the minimum period
17 or periods of imprisonment fixed by the court or board, a member or
18 members as determined by the rules of the board shall personally inter-
19 view an inmate serving an indeterminate sentence and determine whether
20 he should be paroled at the expiration of the minimum period or periods
21 in accordance with the procedures adopted pursuant to subdivision four
22 of section two hundred fifty-nine-c OF THIS ARTICLE. If parole is not
23 granted upon such review, the inmate shall be informed in writing within
24 two weeks of such appearance of the factors and reasons for such denial
25 of parole. Such reasons shall be given in detail and not in conclusory
26 terms. The board shall specify a date not more than twenty-four months
27 from such determination for reconsideration, and the procedures to be
28 followed upon reconsideration shall be the same. If the inmate is
29 released, he shall be given a copy of the conditions of parole. Such
30 conditions shall where appropriate, include a requirement that the paro-
31 lee comply with any restitution order and mandatory surcharge previously
32 imposed by a court of competent jurisdiction that applies to the paro-
33 lee. The conditions shall indicate which restitution collection agency
34 established under subdivision eight of section 420.10 of the criminal
35 procedure law, shall be responsible for collection of restitution and
36 mandatory surcharge as provided for in section 60.35 of the penal law
37 and section eighteen hundred nine of the vehicle and traffic law. IF
38 PAROLE IS GRANTED, A STATEMENT OF THE REASONS FOR GRANTING PAROLE SHALL
39 BE STATED IN WRITING AND SHALL BE PROVIDED, WITHIN A REASONABLE TIME
40 AFTER SUCH DECISION, TO A VICTIM OR VICTIM'S REPRESENTATIVE WHO HAS
41 FILED A STATEMENT PURSUANT TO PARAGRAPH (C) OF THIS SUBDIVISION.

42 S 3. Subdivision 1 of section 440.50 of the criminal procedure law, as
43 amended by section 80 of subpart B of part C of chapter 62 of the laws
44 of 2011, is amended to read as follows:

45 1. Upon the request of a victim of a crime, or in any event in all
46 cases in which the final disposition includes a conviction of a violent
47 felony offense as defined in section 70.02 of the penal law or a felony
48 defined in article one hundred twenty-five of such law, the district
49 attorney shall, within [sixty] FIFTEEN days of the final disposition of
50 the case, inform the victim by letter of such final disposition. If such
51 final disposition results in the commitment of the defendant to the
52 custody of the department of corrections and community supervision for
53 an indeterminate sentence, the notice provided to the crime victim shall
54 also inform the victim of his or her right to submit a written, audio-
55 taped, or videotaped victim impact statement to the department of
56 corrections and community supervision or to meet personally with a

1 member of the state board of parole at a time and place separate from
2 the personal interview between a member or members of the board and the
3 inmate and make such a statement, subject to procedures and limitations
4 contained in rules of the board, both pursuant to subdivision two of
5 section two hundred fifty-nine-i of the executive law. The right of the
6 victim under this subdivision to submit a written victim impact state-
7 ment or to meet personally with a member of the state board of parole
8 applies to each personal interview between a member or members of the
9 board and the inmate.

10 S 4. This act shall take effect April 1, 2013; provided that the
11 amendments to paragraph (a) of subdivision 2 of section 259-i of the
12 executive law made by section one of this act shall be subject to the
13 expiration and reversion of such paragraph pursuant to subdivision d of
14 section 74 of chapter 3 of the laws of 1995, as amended, when upon such
15 date the provisions of section two of this act shall take effect.