

3249

2011-2012 Regular Sessions

I N   S E N A T E

February 14, 2011

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Introduced by Sen. NOZZOLIO -- 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 directing the division of parole, on its internet homepage, to maintain a list of inmates eligible for parole and to provide crime victims a means to register to receive notice of the parole hearing of the inmate who committed the crime against such victim, requiring the division of parole to submit a report on the inmates granted parole, the consideration of inmates for parole, and the crime victims fair treatment standard pamphlet

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

1     Section 1. Section 259-a of the executive law is amended by adding two  
2     new subdivisions 8-a and 8-b to read as follows:  
3     8-A. THE DIVISION SHALL, ON ITS INTERNET HOMEPAGE:  
4     (A) PROVIDE AND MAINTAIN ON A CURRENT BASIS A LISTING OF ALL INMATES  
5     WHO WILL APPEAR BEFORE THE BOARD OF PAROLE AT SOME FUTURE DATE, AND FOR  
6     EACH SUCH INMATE THE DATE OF SUCH APPEARANCE, THE CRIME OR CRIMES OF  
7     CONVICTION AND THE INMATE'S NEW YORK STATE IDENTIFICATION NUMBER; AND  
8     (B) PROVIDE A MEANS FOR ANY VICTIM, AS SUCH TERM IS DEFINED IN SUBDI-  
9     VISION TWO OF SECTION 440.50 OF THE CRIMINAL PROCEDURE LAW, TO REGISTER  
10    TO RECEIVE NOTICE AT SUCH PERSON'S ELECTRONIC MAIL ADDRESS OR HIS OR HER  
11    PERSONAL MAIL ADDRESS OR BOTH THE ELECTRONIC MAIL ADDRESS AND PERSONAL  
12    MAIL ADDRESS OF THE DATE OF THE SCHEDULED APPEARANCE BEFORE THE BOARD OF  
13    PAROLE OF THE INMATE WHO WAS CONVICTED OF THE CRIME AGAINST THE VICTIM.  
14    8-B. THE DIVISION SHALL PRESENT TO THE GOVERNOR, TEMPORARY PRESIDENT  
15    OF THE SENATE, MINORITY LEADER OF THE SENATE, SPEAKER OF THE ASSEMBLY  
16    AND THE MINORITY LEADER OF THE ASSEMBLY A QUARTERLY REPORT DETAILING THE  
17    NUMBER OF INMATES WHO APPEARED BEFORE THE BOARD OF PAROLE PURSUANT TO  
18    SECTION TWO HUNDRED FIFTY-NINE-I OF THIS ARTICLE AND THE NUMBER OF SUCH

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

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1 INMATES WHO WERE GRANTED PAROLE, SEPARATELY STATING THE INFORMATION FOR  
2 THOSE CONVICTED OF A CLASS A FELONY, THOSE CONVICTED OF A VIOLENT FELONY  
3 OFFENSE, AS DEFINED IN SECTION 70.02 OF THE PENAL LAW, AND THOSE  
4 CONVICTED OF AN OFFENSE OTHER THAN A CLASS A FELONY OR A VIOLENT FELONY  
5 OFFENSE; AND FOR EACH INMATE WHO WAS RELEASED TO PAROLE BY THE BOARD,  
6 THE NAME OF THE INMATE, THE CRIME OR CRIMES OF CONVICTION, THE COUNTY OF  
7 CONVICTION, THE SENTENCE IMPOSED UPON SUCH INMATE AND THE AMOUNT OF SUCH  
8 SENTENCE WHICH HAS BEEN SERVED BY THE INMATE IN CONFINEMENT PRIOR TO  
9 RELEASE ON PAROLE. THE INITIAL REPORT REQUIRED BY THIS SUBDIVISION SHALL  
10 BE FOR THE PERIOD BEGINNING SEPTEMBER FIRST, TWO THOUSAND TWELVE AND  
11 ENDING DECEMBER THIRTY-FIRST, TWO THOUSAND TWELVE AND SHALL BE PRESENTED  
12 NO LATER THAN JANUARY THIRTY-FIRST, TWO THOUSAND THIRTEEN. THEREAFTER,  
13 EACH QUARTERLY REPORT SHALL BE PRESENTED NO LATER THAN THIRTY DAYS AFTER  
14 THE CLOSE OF EACH QUARTER.

15 S 2. Subparagraph (i) of paragraph (a) of subdivision 2 of section  
16 259-i of the executive law, as separately amended by section 11 of part  
17 E and section 9 of part F of chapter 62 of the laws of 2003, is amended  
18 to read as follows:

19 (i) Except as provided in subparagraph (ii) of this paragraph, at  
20 least one month prior to the date on which an inmate may be paroled  
21 pursuant to subdivision one of section 70.40 of the penal law, a member  
22 or members as determined by the rules of the board shall personally  
23 interview such inmate and determine whether he OR SHE should be paroled  
24 in accordance with the guidelines adopted pursuant to subdivision four  
25 of section two hundred fifty-nine-c of this article. NOTWITHSTANDING  
26 ANY OTHER LAW, RULE OR REGULATION TO THE CONTRARY, AN INMATE WHO IS  
27 CONVICTED OF A CLASS A FELONY MUST BE INTERVIEWED BY NOT LESS THAN THREE  
28 MEMBERS OF THE BOARD AND PAROLE SHALL NOT BE GRANTED TO SUCH INMATE  
29 EXCEPT UPON THE CONCURRENCE OF ALL OF THE MEMBERS WHO HAVE INTERVIEWED  
30 SUCH INMATE. If parole is not granted upon such review, the inmate shall  
31 be informed in writing within two weeks of such appearance of the  
32 factors and reasons for such denial of parole. Such reasons shall be  
33 given in detail and not in conclusory terms. The board shall specify a  
34 date not more than twenty-four months from such determination for recon-  
35 sideration, and the procedures to be followed upon reconsideration shall  
36 be the same. If the inmate is released, he OR SHE shall be given a copy  
37 of the conditions of parole. Such conditions shall where appropriate,  
38 include a requirement that the parolee comply with any restitution  
39 order, mandatory surcharge, sex offender registration fee and DNA data-  
40 bank fee previously imposed by a court of competent jurisdiction that  
41 applies to the parolee. The board of parole shall indicate which resti-  
42 tution collection agency established under subdivision eight of section  
43 420.10 of the criminal procedure law, shall be responsible for  
44 collection of restitution, mandatory surcharge, sex offender registra-  
45 tion fees and DNA databank fees as provided for in section 60.35 of the  
46 penal law and section eighteen hundred nine of the vehicle and traffic  
47 law. NOT LESS THAN NINE MONTHS PRIOR TO THE DATE THAT AN INMATE WILL BE  
48 PERSONALLY INTERVIEWED BY THE MEMBERS OF THE BOARD, NOTICE OF THE DATE  
49 OF SUCH INTERVIEW SHALL BE GIVEN TO THE DISTRICT ATTORNEY OF THE COUNTY  
50 IN WHICH THE INMATE WAS CONVICTED; AND NOTICE OF THE DATE OF SUCH INTER-  
51 VIEW AND A STATEMENT OF THE VICTIM'S RIGHTS UNDER SECTION 440.50 OF THE  
52 CRIMINAL PROCEDURE LAW SHALL BE GIVEN BY THE BOARD TO THE VICTIM, AS  
53 SUCH TERM IS DEFINED IN SUBDIVISION TWO OF SECTION 440.50 OF THE CRIMI-  
54 NAL PROCEDURE LAW, PROVIDED THAT THE VICTIM HAS REQUESTED SUCH NOTICE.  
55 THE VICTIM MAY REQUEST SUCH NOTICE IN THE MANNER PROVIDED BY SECTION  
56 440.50 OF THE CRIMINAL PROCEDURE LAW, OR AT ANY OTHER TIME BY WRITTEN

1 REQUEST TO THE BOARD OR BY REQUESTING SUCH NOTICE ON THE INTERNET  
2 WEBSITE OF THE DIVISION AS PROVIDED IN SUBDIVISION EIGHT-A OF SECTION  
3 TWO HUNDRED FIFTY-NINE-A OF THIS ARTICLE.

4 S 3. Paragraph (a) of subdivision 2 of section 259-i of the executive  
5 law, as amended by chapter 396 of the laws of 1987, is amended to read  
6 as follows:

7 (a) At least one month prior to the expiration of the minimum period  
8 or periods of imprisonment fixed by the court or board, a member or  
9 members as determined by the rules of the board shall personally inter-  
10 view an inmate serving an indeterminate sentence and determine whether  
11 he OR SHE should be paroled at the expiration of the minimum period or  
12 periods in accordance with the guidelines adopted pursuant to subdivi-  
13 sion four of section two hundred fifty-nine-c OF THIS ARTICLE. NOTWITH-  
14 STANDING ANY OTHER LAW, RULE OR REGULATION TO THE CONTRARY, AN INMATE  
15 WHO IS CONVICTED OF A CLASS A FELONY MUST BE INTERVIEWED BY NOT LESS  
16 THAN THREE MEMBERS OF THE BOARD AND PAROLE SHALL NOT BE GRANTED TO SUCH  
17 INMATE EXCEPT UPON THE CONCURRENCE OF ALL OF THE MEMBERS WHO HAVE INTER-  
18 VIEWED SUCH INMATE. If parole is not granted upon such review, the  
19 inmate shall be informed in writing within two weeks of such appearance  
20 of the factors and reasons for such denial of parole. Such reasons shall  
21 be given in detail and not in conclusory terms. The board shall specify  
22 a date not more than twenty-four months from such determination for  
23 reconsideration, and the procedures to be followed upon reconsideration  
24 shall be the same. If the inmate is released, he OR SHE shall be given a  
25 copy of the conditions of parole. Such conditions shall where appropri-  
26 ate, include a requirement that the parolee comply with any restitution  
27 order and mandatory surcharge previously imposed by a court of competent  
28 jurisdiction that applies to the parolee. The board of parole shall  
29 indicate which restitution collection agency established under subdivi-  
30 sion eight of section 420.10 of the criminal procedure law, shall be  
31 responsible for collection of restitution and mandatory surcharge as  
32 provided for in section 60.35 of the penal law and section eighteen  
33 hundred nine of the vehicle and traffic law. NOT LESS THAN NINE MONTHS  
34 PRIOR TO THE DATE THAT AN INMATE WILL BE PERSONALLY INTERVIEWED BY THE  
35 MEMBERS OF THE BOARD, NOTICE OF THE DATE OF SUCH INTERVIEW SHALL BE  
36 GIVEN TO THE DISTRICT ATTORNEY OF THE COUNTY IN WHICH THE INMATE WAS  
37 CONVICTED; AND NOTICE OF THE DATE OF SUCH INTERVIEW AND A STATEMENT OF  
38 THE VICTIM'S RIGHTS UNDER SECTION 440.50 OF THE CRIMINAL PROCEDURE LAW  
39 SHALL BE GIVEN BY THE BOARD TO THE VICTIM, AS SUCH TERM IS DEFINED IN  
40 SUBDIVISION TWO OF SECTION 440.50 OF THE CRIMINAL PROCEDURE LAW,  
41 PROVIDED THAT THE VICTIM HAS REQUESTED SUCH NOTICE. THE VICTIM MAY  
42 REQUEST SUCH NOTICE IN THE MANNER PROVIDED BY SECTION 440.50 OF THE  
43 CRIMINAL PROCEDURE LAW, OR AT ANY OTHER TIME BY WRITTEN REQUEST TO THE  
44 BOARD OR BY REQUESTING SUCH NOTICE ON THE INTERNET WEBSITE OF THE DIVI-  
45 SION AS PROVIDED IN SUBDIVISION EIGHT-A OF SECTION TWO HUNDRED  
46 FIFTY-NINE-A OF THIS ARTICLE.

47 S 4. Paragraph (g) of subdivision 2 of section 646-a of the executive  
48 law, as added by chapter 186 of the laws of 2005, is amended to read  
49 as follows:

50 (g) the rights of crime victims to be aware of the defendant's incar-  
51 ceration status by providing the division of parole's contact informa-  
52 tion, including the division's toll-free telephone number, as provided  
53 for in subdivision two of section two hundred fifty-nine-i of this chap-  
54 ter, AND THE INTERNET WEB ADDRESS OF THE DIVISION, AS PROVIDED BY SUBDI-  
55 VISION EIGHT-A OF SECTION TWO HUNDRED FIFTY-NINE-A OF THIS CHAPTER.

1 Such notice shall advise the crime victim to use the division's toll-  
2 free telephone number OR INTERNET WEBSITE to update contact information.

3 S 5. This act shall take effect immediately, provided that:

4 (a) subdivision 8-a of section 259-a of the executive law, as added by  
5 section one of this act, and section four of this act shall take effect  
6 on the one hundred eightieth day after it shall have become a law, and  
7 effective immediately, any rules and regulations, and any other actions,  
8 necessary to implement such provisions of this act on their effective  
9 date are authorized and directed to be completed on or before such date;  
10 and

11 (b) the amendments to paragraph (a) of subdivision 2 of section 259-i  
12 of the executive law, made by section two of this act, shall be subject  
13 to the expiration and reversion of such paragraph pursuant to subdivi-  
14 sion d of section 74 of chapter 3 of the laws of 1995, as amended, when  
15 upon such date the provisions of section three of this act shall take  
16 effect.