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

2405

2013-2014 Regular Sessions

I N A S S E M B L Y

January 15, 2013

Introduced by M. of A. SIMANOWITZ, MILLER -- 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 ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Paragraph (a) of subdivision 2 of section 259-i of the executive law, as amended by section 38-f-1 of subpart A of part C of chapter 62 of the laws of 2011, is amended to read as follows:

(a) (i) Except as provided in subparagraph (ii) of this paragraph, at least one month prior to the date on which an inmate may be paroled pursuant to subdivision one of section 70.40 of the penal law, a member or members as determined by the rules of the board shall personally interview such inmate and determine whether he should be paroled in accordance with the guidelines adopted pursuant to subdivision four of section two hundred fifty-nine-c of this article. If parole is not granted upon such review, the inmate shall be informed in writing within two weeks of such appearance of the factors and reasons for such denial of parole. Such reasons shall be given in detail and not in conclusory terms. The board shall specify a date not more than twenty-four months from such determination for reconsideration, and the procedures to be followed upon reconsideration shall be the same. If the inmate is released, he shall be given a copy of the conditions of parole. Such conditions shall where appropriate, include a requirement that the parolee comply with any restitution order, mandatory surcharge, sex offender registration fee and DNA databank fee previously imposed by a court of competent jurisdiction that applies to the parolee. The conditions shall indicate which restitution collection agency established under subdivision eight of section 420.10 of the criminal procedure law, shall be responsible for collection of restitution, mandatory surcharge, sex

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

LBD03475-01-3

offender registration fees and DNA databank fees as provided for in section 60.35 of the penal law and section eighteen hundred nine of the vehicle and traffic law. IF PAROLE IS GRANTED, A STATEMENT OF THE REASONS FOR GRANTING PAROLE SHALL BE STATED IN WRITING AND SHALL BE PROVIDED, WITHIN A REASONABLE TIME AFTER SUCH DECISION, TO A VICTIM OR VICTIM'S REPRESENTATIVE WHO HAS FILED A STATEMENT PURSUANT TO PARAGRAPH (C) OF THIS SUBDIVISION.

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

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

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

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

1. Upon the request of a victim of a crime, or in any event in all cases in which the final disposition includes a conviction of a violent felony offense as defined in section 70.02 of the penal law or a felony defined in article one hundred twenty-five of such law, the district attorney shall, within [sixty] FIFTEEN days of the final disposition of the case, inform the victim by letter of such final disposition. If such final disposition results in the commitment of the defendant to the custody of the department of corrections and community supervision for an indeterminate sentence, the notice provided to the crime victim shall

also inform the victim of his or her right to submit a written, audio-taped, or videotaped victim impact statement to the department of corrections and community supervision or to meet personally with a member of the state board of parole at a time and place separate from the personal interview between a member or members of the board and the inmate and make such a statement, subject to procedures and limitations contained in rules of the board, both pursuant to subdivision two of section two hundred fifty-nine-i of the executive law. The right of the victim under this subdivision to submit a written victim impact statement or to meet personally with a member of the state board of parole applies to each personal interview between a member or members of the board and the inmate.

S 4. This act shall take effect April 1, 2014; provided that the amendments to paragraph (a) of subdivision 2 of section 259-i of the executive law made by section one of this act shall be subject to the expiration and reversion of such paragraph pursuant to subdivision d of section 74 of chapter 3 of the laws of 1995, as amended, when upon such date the provisions of section two of this act shall take effect.