

S T A T E   O F   N E W   Y O R K

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I N   A S S E M B L Y

May 5, 2014

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Introduced by M. of A. O'DONNELL -- read once and referred to the  
Committee on Correction

AN ACT to amend the executive law, in relation to deference in discretionary release on parole

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

1     Section 1. Subparagraph (A) of paragraph (c) 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 to  
4     read as follows:  
5     (A) Discretionary release on parole shall not be granted merely as a  
6     reward for good conduct or efficient performance of duties while  
7     confined but after considering if there is a reasonable probability  
8     that, if such inmate is released, he will live and remain at liberty  
9     without violating the law, and that his release is not incompatible with  
10    the welfare of society and will not so deprecate the seriousness of his  
11    crime as to undermine respect for law. In making the parole release  
12    decision, the procedures adopted pursuant to subdivision four of section  
13    two hundred fifty-nine-c of this article shall require that the following  
14    be considered: (i) the institutional record including program goals  
15    and accomplishments, academic achievements, vocational education, training  
16    or work assignments, therapy and interactions with staff and  
17    inmates; (ii) performance, if any, as a participant in a temporary  
18    release program; (iii) release plans including community resources,  
19    employment, education and training and support services available to the  
20    inmate; (iv) any deportation order issued by the federal government  
21    against the inmate while in the custody of the department and any recommendation  
22    regarding deportation made by the commissioner of the department pursuant to  
23    section one hundred forty-seven of the correction law;  
24    (v) any statement made to the board by the crime victim or the victim's  
25    representative, where the crime victim is deceased or is mentally or  
26    physically incapacitated; (vi) the length of the determinate sentence to  
27    which the inmate would be subject had he or she received a sentence  
28    pursuant to section 70.70 or section 70.71 of the penal law for a felony

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

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1 defined in article two hundred twenty or article two hundred twenty-one  
2 of the penal law; (vii) the seriousness of the offense with due [consid-  
3 eration] DEFERENCE to the type of sentence, length of sentence and  
4 recommendations of the sentencing court, AND DUE CONSIDERATION TO THE  
5 RECOMMENDATIONS OF the district attorney, the attorney for the inmate,  
6 the pre-sentence probation report as well as consideration of any miti-  
7 gating and aggravating factors, and activities following arrest prior to  
8 confinement; and (viii) prior criminal record, including the nature and  
9 pattern of offenses, adjustment to any previous probation or parole  
10 supervision and institutional confinement. The board shall provide toll  
11 free telephone access for crime victims. In the case of an oral state-  
12 ment made in accordance with subdivision one of section 440.50 of the  
13 criminal procedure law, the parole board member shall present a written  
14 report of the statement to the parole board. A crime victim's represen-  
15 tative shall mean the crime victim's closest surviving relative, the  
16 committee or guardian of such person, or the legal representative of any  
17 such person. Such statement submitted by the victim or victim's repre-  
18 sentative may include information concerning threatening or intimidating  
19 conduct toward the victim, the victim's representative, or the victim's  
20 family, made by the person sentenced and occurring after the sentencing.  
21 Such information may include, but need not be limited to, the threaten-  
22 ing or intimidating conduct of any other person who or which is directed  
23 by the person sentenced.  
24 S 2. This act shall take effect immediately.