

S. 1854

A. 1456

2013-2014 Regular Sessions

S E N A T E - A S S E M B L Y

(PREFILED)

January 9, 2013

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IN SENATE -- Introduced by Sen. LAVALLE -- read twice and ordered printed, and when printed to be committed to the Committee on Crime Victims, Crime and Correction

IN ASSEMBLY -- Introduced by M. of A. THIELE -- read once and referred to the Committee on Correction

AN ACT to amend the executive law, in relation to requiring inmates to have an acceptable residence to qualify for 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 OR SHE will live and remain at  
9     liberty without violating the law, and that his OR HER release is not  
10    incompatible with the welfare of society and will not so deprecate the  
11    seriousness of his crime as to undermine respect for law. In making the  
12    parole release decision, the procedures adopted pursuant to subdivision  
13    four of section two hundred fifty-nine-c of this article shall require  
14    that the following be considered: (i) the institutional record including  
15    program goals and accomplishments, academic achievements, vocational  
16    education, training or work assignments, therapy and interactions with  
17    staff and inmates; (ii) performance, if any, as a participant in a  
18    temporary release program; (iii) release plans [including] SHALL  
19    INCLUDE, IN ADDITION TO community resources, employment, education and  
20    training and support services available to the inmate, AN ACCEPTABLE

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

LBD01619-01-3

1 RESIDENCE. IN ORDER FOR A RESIDENCE TO BE AN ACCEPTABLE RESIDENCE AND  
2 QUALIFY THE INMATE FOR PAROLE RELEASE, SUCH RESIDENCE SHALL BE A PERMA-  
3 NENT RESIDENCE, AND NOT A TEMPORARY SHELTER INCLUDING, BUT NOT LIMITED  
4 TO, A HOMELESS SHELTER, MOTEL/HOTEL, OR TRAILER, AND SHALL ALLOW THE  
5 INMATE TO COMPLY WITH ALL STATE AND LOCAL LAWS AND REGULATIONS REGARDING  
6 PLACEMENT OF REGISTERED SEX OFFENDERS; (iv) any deportation order issued  
7 by the federal government against the inmate while in the custody of the  
8 department and any recommendation regarding deportation made by the  
9 commissioner of the department pursuant to section one hundred forty-  
10 seven of the correction law; (v) any statement made to the board by the  
11 crime victim or the victim's representative, where the crime victim is  
12 deceased or is mentally or physically incapacitated; (vi) the length of  
13 the determinate sentence to which the inmate would be subject had he or  
14 she received a sentence pursuant to section 70.70 or section 70.71 of  
15 the penal law for a felony defined in article two hundred twenty or  
16 article two hundred twenty-one of the penal law; (vii) the seriousness  
17 of the offense with due consideration to the type of sentence, length of  
18 sentence and recommendations of the sentencing court, the district  
19 attorney, the attorney for the inmate, the pre-sentence probation report  
20 as well as consideration of any mitigating and aggravating factors, and  
21 activities following arrest prior to confinement; and (viii) prior crim-  
22 inal record, including the nature and pattern of offenses, adjustment to  
23 any previous probation or parole supervision and institutional confine-  
24 ment. The board shall provide toll free telephone access for crime  
25 victims. In the case of an oral statement made in accordance with subdi-  
26 vision one of section 440.50 of the criminal procedure law, the parole  
27 board member shall present a written report of the statement to the  
28 parole board. A crime victim's representative shall mean the crime  
29 victim's closest surviving relative, the committee or guardian of such  
30 person, or the legal representative of any such person. Such statement  
31 submitted by the victim or victim's representative may include informa-  
32 tion concerning threatening or intimidating conduct toward the victim,  
33 the victim's representative, or the victim's family, made by the person  
34 sentenced and occurring after the sentencing. Such information may  
35 include, but need not be limited to, the threatening or intimidating  
36 conduct of any other person who or which is directed by the person  
37 sentenced.

38 S 2. This act shall take effect immediately.