

2290

2015-2016 Regular Sessions

I N A S S E M B L Y

January 15, 2015

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 be considered: (i) the institutional record including program goals and accomplishments, academic achievements, vocational education, training or work assignments, therapy and interactions with staff and inmates; (ii) performance, if any, as a participant in a temporary release program; (iii) release plans including community resources, employment, education and training and support services available to the inmate; (iv) any deportation order issued by the federal government against the inmate while in the custody of the department and any recommendation regarding deportation made by the commissioner of the department pursuant to section one hundred forty-seven of the correction law; (v) any statement made to the board by the crime victim or the victim's representative, where the crime victim is deceased or is mentally or

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

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1 physically incapacitated; (vi) the length of the determinate sentence to
2 which the inmate would be subject had he or she received a sentence
3 pursuant to section 70.70 or section 70.71 of the penal law for a felony
4 defined in article two hundred twenty or article two hundred twenty-one
5 of the penal law; (vii) the seriousness of the offense with due [consid-
6 eration] DEFERENCE to the type of sentence, length of sentence and
7 recommendations of the sentencing court, AND DUE CONSIDERATION TO THE
8 RECOMMENDATIONS OF the district attorney, the attorney for the inmate,
9 the pre-sentence probation report as well as consideration of any miti-
10 gating and aggravating factors, and activities following arrest prior to
11 confinement; and (viii) prior criminal record, including the nature and
12 pattern of offenses, adjustment to any previous probation or parole
13 supervision and institutional confinement. The board shall provide toll
14 free telephone access for crime victims. In the case of an oral state-
15 ment made in accordance with subdivision one of section 440.50 of the
16 criminal procedure law, the parole board member shall present a written
17 report of the statement to the parole board. A crime victim's represen-
18 tative shall mean the crime victim's closest surviving relative, the
19 committee or guardian of such person, or the legal representative of any
20 such person. Such statement submitted by the victim or victim's repre-
21 sentative may include information concerning threatening or intimidating
22 conduct toward the victim, the victim's representative, or the victim's
23 family, made by the person sentenced and occurring after the sentencing.
24 Such information may include, but need not be limited to, the threaten-
25 ing or intimidating conduct of any other person who or which is directed
26 by the person sentenced.

27 S 2. This act shall take effect immediately.