

2015-2016 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 7, 2015

Introduced by M. of A. SIMANOWITZ, MILLER -- read once and referred to the Committee on Correction

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:

1 Section 1. Paragraph (a) of subdivision 2 of section 259-i of the
2 executive law, as amended by section 38-f-1 of subpart A of part C of
3 chapter 62 of the laws of 2011, is amended to read as follows:
4 (a) (i) Except as provided in subparagraph (ii) of this paragraph, at
5 least one month prior to the date on which an inmate may be paroled
6 pursuant to subdivision one of section 70.40 of the penal law, a member
7 or members as determined by the rules of the board shall personally
8 interview such inmate and determine whether he should be paroled in
9 accordance with the guidelines adopted pursuant to subdivision four of
10 section two hundred fifty-nine-c of this article. If parole is not
11 granted upon such review, the inmate shall be informed in writing within
12 two weeks of such appearance of the factors and reasons for such denial
13 of parole. Such reasons shall be given in detail and not in conclusory
14 terms. The board shall specify a date not more than twenty-four months
15 from such determination for reconsideration, and the procedures to be
16 followed upon reconsideration shall be the same. If the inmate is
17 released, he shall be given a copy of the conditions of parole. Such
18 conditions shall where appropriate, include a requirement that the parolee
19 comply with any restitution order, mandatory surcharge, sex offender
20 registration fee and DNA databank fee previously imposed by a court of
21 competent jurisdiction that applies to the parolee. The conditions shall
22 indicate which restitution collection agency established under subdivision
23 eight of section 420.10 of the criminal procedure law, shall be

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

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

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

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

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

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

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

1 an indeterminate sentence, the notice provided to the crime victim shall
2 also inform the victim of his or her right to submit a written, audio-
3 taped, or videotaped victim impact statement to the department of
4 corrections and community supervision or to meet personally with a
5 member of the state board of parole at a time and place separate from
6 the personal interview between a member or members of the board and the
7 inmate and make such a statement, subject to procedures and limitations
8 contained in rules of the board, both pursuant to subdivision two of
9 section two hundred fifty-nine-i of the executive law. The right of the
10 victim under this subdivision to submit a written victim impact state-
11 ment or to meet personally with a member of the state board of parole
12 applies to each personal interview between a member or members of the
13 board and the inmate.

14 S 4. This act shall take effect April 1, 2015; provided that the
15 amendments to paragraph (a) of subdivision 2 of section 259-i of the
16 executive law made by section one of this act shall be subject to the
17 expiration and reversion of such paragraph pursuant to subdivision d of
18 section 74 of chapter 3 of the laws of 1995, as amended, when upon such
19 date the provisions of section two of this act shall take effect.