

9696

I N A S S E M B L Y

April 1, 2016

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

AN ACT to amend the executive law, in relation to statements made to the
state board of parole by the victim of a crime

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

1 S 1. Subparagraph (A) of paragraph (c) of subdivision 2 of section
2 259-i of the executive law, as amended by section 38-f-1 of the subpart
3 A of part C of chapter 62 of the laws of 2011, is amended to read as
4 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 follow-
14 ing be considered: (i) the institutional record including program goals
15 and accomplishments, academic achievements, vocational education, train-
16 ing 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 recom-
22 mendation regarding deportation made by the commissioner of the depart-
23 ment pursuant to section one hundred forty-seven of the correction law;
24 (v) any CURRENT OR PRIOR statement made to the board by the crime victim
25 or the victim's representative, where the crime victim is deceased or is
26 mentally or physically incapacitated; (vi) the length of the determinate
27 sentence to which the inmate would be subject had he or she received a
28 sentence pursuant to section 70.70 or section 70.71 of the penal law for

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

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1 a felony defined in article two hundred twenty or article two hundred
2 twenty-one of the penal law; (vii) the seriousness of the offense with
3 due consideration to the type of sentence, length of sentence and recom-
4 mendations of the sentencing court, the district attorney, the attorney
5 for the inmate, the pre-sentence probation report as well as consider-
6 ation of any mitigating and aggravating factors, and activities follow-
7 ing arrest prior to confinement; and (viii) prior criminal record,
8 including the nature and pattern of offenses, adjustment to any previous
9 probation or parole supervision and institutional confinement. The board
10 shall provide toll free telephone access for crime victims. In the case
11 of an oral statement made in accordance with subdivision one of section
12 440.50 of the criminal procedure law, the parole board member shall
13 present a written report of the statement to the parole board. A crime
14 victim's representative shall mean the crime victim's closest surviving
15 relative, the committee or guardian of such person, or the legal repre-
16 sentative of any such person. Such statement submitted by the victim or
17 victim's representative may include information concerning threatening
18 or intimidating conduct toward the victim, the victim's representative,
19 or the victim's family, made by the person sentenced and occurring after
20 the sentencing. Such information may include, but need not be limited
21 to, the threatening or intimidating conduct of any other person who or
22 which is directed by the person sentenced. ANY STATEMENT BY A VICTIM OR
23 THE VICTIM'S REPRESENTATIVE MADE TO THE BOARD SHALL BE MAINTAINED BY THE
24 DEPARTMENT IN THE FILE PROVIDED TO THE BOARD WHEN INTERVIEWING THE
25 INMATE IN CONSIDERATION OF RELEASE. A VICTIM OR VICTIM'S REPRESENTATIVE
26 WHO HAS SUBMITTED A WRITTEN REQUEST TO THE DEPARTMENT FOR THE TRANSCRIPT
27 OF SUCH INTERVIEW SHALL BE PROVIDED SUCH TRANSCRIPT AS SOON AS IT
28 BECOMES AVAILABLE.

29 S 2. This act shall take effect on the ninetieth day after it shall
30 have become a law.