

9696

I N   A S S E M B L Y

April 1, 2016

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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.