STATE OF NEW YORK

2350--A

2017-2018 Regular Sessions

IN ASSEMBLY

January 18, 2017

Introduced by M. of A. THIELE, PALMESANO, MAGNARELLI, STIRPE, McDONOUGH, GRAF, FINCH, KOLB, WOERNER, RAIA, BRABENEC, RA, LUPINACCI, WALTER, OAKS, GIGLIO, GARBARINO, McKEVITT, CROUCH, LALOR, MURRAY, LAWRENCE, PALUMBO, HAWLEY, FITZPATRICK, CASTORINA, BLANKENBUSH, STEC, GOODELL, DiPIETRO, RYAN, KEARNS, DILAN, COLTON -- Multi-Sponsored by -- M. of A. BARCLAY, BUTLER, CURRAN, FRIEND, JOHNS, LOPEZ, MALLIOTAKIS, McLAUGHLIN, B. MILLER, MONTESANO, SCHIMMINGER -- read once and referred to the Committee on Correction -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the executive law, in relation to the time in which reconsideration for parole shall be determined in the case of convictions for murder in the first degree, aggravated murder, and murder in the second degree, where a sentence other than death or life imprisonment without parole is imposed

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. This act shall be known and may be cited as "Lorraine's Law".

§ 2. Legislative findings and intent. This legislation is named in the memory of Lorraine Miranda who was a native of Shirley, Long Island. Despite being afflicted with Cerebral Palsy, she graduated from high school, moved to Staten Island, New York and worked tirelessly to help disabled children at the Port Richmond branch of United Cerebral Palsy of New York while attending college at night. She was engaged and was planning her wedding. In a tragic turn, Lorraine Miranda was brutally murdered by her fiancee on December 5, 1988. She was only 24 years old. Her killer was sentenced to 15 years to life in prison. He became eligible for parole in 2003 and has since been denied seven times.

Currently when parole is denied, the Parole Board has the discretion to set the date for reconsideration for parole for any date within two

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

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years of the denial of parole. In many cases, especially those involving heinous acts of murder in the first degree, aggravated murder, and murder in the second degree, parole will be denied numerous times. However, each time an inmate is considered for parole, the victim's family must relive the horror of the crime for the sake of impressing upon the Parole Board the inappropriateness of early release. Lorraine Miranda's mother, who has been diagnosed with post-traumatic stress syndrome, has stated that the agony of reliving her daughter's death every 24 months is unbearable and is a major trigger of panic symptoms which interfere with her quality of life.

It is not the intent of "Lorraine's Law" to in any way infringe upon the Parole Board's ability to allow for the current 24-month reconsideration period. It merely provides another option for the board to consider if it is apparent that nothing could transpire in the next five years that would cause them to render a different opinion regarding parole release. Only in these cases would the board have the ability to set the date for reconsideration anywhere between 24-months and 60-months which would afford grieving families a greater period of peace before having to testify at the next parole hearing.

§ 3. Subparagraph (i) of paragraph (a) of subdivision 2 of section 259-i of the executive law, as amended by section 38-f-1 of subpart A of part C of chapter 62 of the laws of 2011, is amended to read as follows:

(i) Except as provided in subparagraph (ii) of this paragraph, at least one month prior to the date on which an inmate may be paroled pursuant to subdivision one of section 70.40 of the penal law, a member or members as determined by the rules of the board shall personally interview such inmate and determine whether he **or she** should be paroled in accordance with the guidelines adopted pursuant to subdivision four of section two hundred fifty-nine-c of this article. If parole is not granted upon such review, the inmate shall be informed in writing within two weeks of such appearance of the factors and reasons for such denial of parole. Such reasons shall be given in detail and not in conclusory terms. The board shall specify a date not more than twenty-four months from such determination for reconsideration, and the procedures to be followed upon reconsideration shall be the same**, however in the case of a defendant sentenced for an eligible class A felony, the board shall specify a date not more than sixty months from such determination for reconsideration and the procedures to be followed for reconsideration shall be the same. For the purposes of this section an "eligible class A felony" shall mean a conviction for the class A-I felonies of: murder in the first degree as defined in section 125.27 of the penal law where a sentence other than death or life imprisonment without parole is imposed; aggravated murder as defined in section 125.26 of the penal law where a sentence other than death or life imprisonment without parole is imposed; and murder in the second degree as defined in section 125.25 of the penal law where a sentence other than life imprisonment without parole is imposed**. If the inmate is released, he **or she** shall be given a copy of the conditions of parole. Such conditions shall where appropriate, include a requirement that the parolee comply with any restitution order, mandatory surcharge, sex offender registration fee and DNA databank fee previously imposed by a court of competent jurisdiction that applies to the parolee. The conditions shall indicate which restitution collection agency established under subdivision eight of section 420.10 of the criminal procedure law, shall be responsible for collection of restitution, mandatory surcharge, sex offender registration fees and DNA databank fees as provided for in section 60.35 of the

penal law and section eighteen hundred nine of the vehicle and traffic law.

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

(a) At least one month prior to the expiration of the minimum period or periods of imprisonment fixed by the court or board, a member or members as determined by the rules of the board shall personally interview an inmate serving an indeterminate sentence and determine whether he **or she** should be paroled at the expiration of the minimum period or periods in accordance with the procedures adopted pursuant to subdivision four of section two hundred fifty-nine-c **of this article**. If parole is not granted upon such review, the inmate shall be informed in writing within two weeks of such appearance of the factors and reasons for such denial of parole. Such reasons shall be given in detail and not in conclusory terms. The board shall specify a date not more than twenty-four months from such determination for reconsideration, and the procedures to be followed upon reconsideration shall be the same**, however in the case of a defendant sentenced for an eligible class A felony, the board shall specify a date not more than sixty months from such determination for reconsideration, and the procedures to be followed for reconsideration shall be the same. For the purposes of this section an "eligible class A felony" shall mean a conviction for the class A-I felonies of: murder in the first degree as defined in section 125.27 of the penal law where a sentence other than death or life imprisonment without parole is imposed; aggravated murder as defined in section 125.26 of the penal law where a sentence other than death or life imprisonment without parole is imposed; and murder in the second degree as defined in section 125.25 of the penal law where a sentence other than life imprisonment without parole is imposed**. If the inmate is released, he **or she** shall be given a copy of the conditions of parole. Such conditions shall where appropriate, include a requirement that the parolee comply with any restitution order and mandatory surcharge previously imposed by a court of competent jurisdiction that applies to the parolee. The conditions shall indicate which restitution collection agency established under subdivision eight of section 420.10 of the criminal procedure law, shall be responsible for collection of restitution and mandatory surcharge as provided for in section 60.35 of the penal law and section eighteen hundred nine of the vehicle and traffic law.

§ 5. This act shall take effect immediately and shall apply to all future and currently incarcerated individuals sentenced for an eligible class A felony; provided that the amendments to subparagraph (i) of paragraph (a) of subdivision 2 of section 259-i of the executive law made by section three of this act shall be subject to the expiration and reversion of such paragraph pursuant to subdivision d of section 74 of chapter 3 of the laws of 1995, as amended, when upon such date the provisions of section four of this act shall take effect.