

# STATE OF NEW YORK

2997--A

2017-2018 Regular Sessions

## IN SENATE

January 18, 2017

Introduced by Sens. LAVALLE, DeFRANCISCO, FUNKE, GOLDEN, LARKIN, O'MARA, SEWARD, YOUNG -- read twice and ordered printed, and when printed to be committed to the Committee on Crime Victims, Crime and Correction -- reported favorably from said committee and committed to the Committee on Finance -- 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:

1 Section 1. This act shall be known and may be cited as "Lorraine's  
2 Law".  
3 § 2. Legislative findings and intent. This legislation is named in the  
4 memory of Lorraine Miranda who was a native of Shirley, Long Island.  
5 Despite being afflicted with Cerebral Palsy, she graduated from high  
6 school, moved to Staten Island, New York and worked tirelessly to help  
7 disabled children at the Port Richmond branch of United Cerebral Palsy  
8 of New York while attending college at night. She was engaged and was  
9 planning her wedding. In a tragic turn, Lorraine Miranda was brutally  
10 murdered by her fiancée on December 5, 1988. She was only 24 years old.  
11 Her killer was sentenced to 15 years to life in prison. He became eligi-  
12 ble for parole in 2003 and has since been denied seven times.  
13 Currently when parole is denied, the Parole Board has the discretion  
14 to set the date for reconsideration for parole for any date within two  
15 years of the denial of parole. In many cases, especially those involving  
16 heinous acts of murder in the first degree, aggravated murder, and  
17 murder in the second degree, parole will be denied numerous times.  
18 However, each time an inmate is considered for parole, the victim's

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

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1 family must relive the horror of the crime for the sake of impressing  
2 upon the Parole Board the inappropriateness of early release. Lorraine  
3 Miranda's mother, who has been diagnosed with post-traumatic stress  
4 syndrome, has stated that the agony of reliving her daughter's death  
5 every 24 months is unbearable and is a major trigger of panic symptoms  
6 which interfere with her quality of life.

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

16 § 3. Subparagraph (i) of paragraph (a) of subdivision 2 of section  
17 259-i of the executive law, as amended by section 38-f-1 of subpart A of  
18 part C of chapter 62 of the laws of 2011, is amended to read as follows:

19 (i) Except as provided in subparagraph (ii) of this paragraph, at  
20 least one month prior to the date on which an inmate may be paroled  
21 pursuant to subdivision one of section 70.40 of the penal law, a member  
22 or members as determined by the rules of the board shall personally  
23 interview such inmate and determine whether he or she should be paroled  
24 in accordance with the guidelines adopted pursuant to subdivision four  
25 of section two hundred fifty-nine-c of this article. If parole is not  
26 granted upon such review, the inmate shall be informed in writing within  
27 two weeks of such appearance of the factors and reasons for such denial  
28 of parole. Such reasons shall be given in detail and not in conclusory  
29 terms. The board shall specify a date not more than twenty-four months  
30 from such determination for reconsideration, and the procedures to be  
31 followed upon reconsideration shall be the same, however in the case of  
32 a defendant sentenced for an eligible class A felony, the board shall  
33 specify a date not more than sixty months from such determination for  
34 reconsideration and the procedures to be followed for reconsideration  
35 shall be the same. For the purposes of this section an "eligible class A  
36 felony" shall mean a conviction for the class A-I felonies of: murder in  
37 the first degree as defined in section 125.27 of the penal law where a  
38 sentence other than death or life imprisonment without parole is  
39 imposed; aggravated murder as defined in section 125.26 of the penal law  
40 where a sentence other than death or life imprisonment without parole is  
41 imposed; and murder in the second degree as defined in section 125.25 of  
42 the penal law where a sentence other than life imprisonment without  
43 parole is imposed. If the inmate is released, he or she shall be given  
44 a copy of the conditions of parole. Such conditions shall where appro-  
45 priate, include a requirement that the parolee comply with any restitu-  
46 tion order, mandatory surcharge, sex offender registration fee and DNA  
47 databank fee previously imposed by a court of competent jurisdiction  
48 that applies to the parolee. The conditions shall indicate which resti-  
49 tution collection agency established under subdivision eight of section  
50 420.10 of the criminal procedure law, shall be responsible for  
51 collection of restitution, mandatory surcharge, sex offender registra-  
52 tion fees and DNA databank fees as provided for in section 60.35 of the  
53 penal law and section eighteen hundred nine of the vehicle and traffic  
54 law.

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

4 (a) At least one month prior to the expiration of the minimum period  
5 or periods of imprisonment fixed by the court or board, a member or  
6 members as determined by the rules of the board shall personally inter-  
7 view an inmate serving an indeterminate sentence and determine whether  
8 he or she should be paroled at the expiration of the minimum period or  
9 periods in accordance with the procedures adopted pursuant to subdivi-  
10 sion four of section two hundred fifty-nine-c of this article. If parole  
11 is not granted upon such review, the inmate shall be informed in writing  
12 within two weeks of such appearance of the factors and reasons for such  
13 denial of parole. Such reasons shall be given in detail and not in  
14 conclusory terms. The board shall specify a date not more than twenty-  
15 four months from such determination for reconsideration, and the proce-  
16 dures to be followed upon reconsideration shall be the same, however in  
17 the case of a defendant sentenced for an eligible class A felony, the  
18 board shall specify a date not more than sixty months from such determi-  
19 nation for reconsideration, and the procedures to be followed for recon-  
20 sideration shall be the same. For the purposes of this section an  
21 "eligible class A felony" shall mean a conviction for the class A-I  
22 felonies of: murder in the first degree as defined in section 125.27 of  
23 the penal law where a sentence other than death or life imprisonment  
24 without parole is imposed; aggravated murder as defined in section  
25 125.26 of the penal law where a sentence other than death or life impri-  
26 sonment without parole is imposed; and murder in the second degree as  
27 defined in section 125.25 of the penal law where a sentence other than  
28 life imprisonment without parole is imposed. If the inmate is released,  
29 he or she shall be given a copy of the conditions of parole. Such condi-  
30 tions shall where appropriate, include a requirement that the parolee  
31 comply with any restitution order and mandatory surcharge previously  
32 imposed by a court of competent jurisdiction that applies to the paro-  
33 lee. The conditions shall indicate which restitution collection agency  
34 established under subdivision eight of section 420.10 of the criminal  
35 procedure law, shall be responsible for collection of restitution and  
36 mandatory surcharge as provided for in section 60.35 of the penal law  
37 and section eighteen hundred nine of the vehicle and traffic law.

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