

STATE OF NEW YORK

8346

IN SENATE

May 2, 2018

Introduced by Sen. RIVERA -- read twice and ordered printed, and when printed to be committed to the Committee on Crime Victims, Crime and Correction

AN ACT to amend the executive law, in relation to findings of the state board of parole necessary for discretionary release of inmates on parole

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

1 Section 1. Subparagraph (A) of paragraph (c) of subdivision 2 of
2 section 259-i of the executive law, as amended by chapter 130 of the
3 laws of 2016, is amended to read as follows:

4 (A) Discretionary release on parole shall [~~not~~] be granted [~~merely as~~
5 ~~a reward for good conduct or efficient performance of duties while~~
6 ~~confined but after considering if~~] upon completion of the minimum term
7 of incarceration imposed by the sentencing court if the board finds
8 there is a reasonable probability that, if such inmate is released, he
9 or she will live and remain at liberty without violating the law, and
10 that his or her release [~~is not incompatible with the welfare of society~~
11 ~~and will not so deprecate the seriousness of his crime as to undermine~~
12 ~~respect for law~~] does not present an unreasonable current public safety
13 risk. If discretionary release to parole is not granted at the inmate's
14 initial parole board appearance, there shall be a presumption of release
15 at any subsequent board appearance absent a preponderance of evidence
16 that the inmate is unlikely to live without violating the law and that
17 his or her release presents an unreasonable current public safety risk.

18 In making the parole release decision, the procedures adopted pursuant
19 to subdivision four of section two hundred fifty-nine-c of this article
20 shall require that the following be considered: (i) the institutional
21 record including program goals and accomplishments, academic achieve-
22 ments, vocational education, training or work assignments, therapy and
23 interactions with staff and inmates; (ii) performance, if any, as a
24 participant in a temporary release program; (iii) release plans includ-
25 ing community resources, employment, education and training and support
26 services available to the inmate; (iv) any deportation order issued by

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

LBD11255-01-7

1 the federal government against the inmate while in the custody of the
2 department and any recommendation regarding deportation made by the
3 commissioner of the department pursuant to section one hundred forty-
4 seven of the correction law; (v) any current or prior statement made to
5 the board by the crime victim or the victim's representative, where the
6 crime victim is deceased or is mentally or physically incapacitated;
7 (vi) the length of the determinate sentence to which the inmate would be
8 subject had he or she received a sentence pursuant to section 70.70 or
9 section 70.71 of the penal law for a felony defined in article two
10 hundred twenty or article two hundred twenty-one of the penal law; (vii)
11 the seriousness of the offense with due consideration to the type of
12 sentence, length of sentence and recommendations of the sentencing
13 court, the district attorney, the attorney for the inmate, the pre-sen-
14 tence probation report as well as consideration of any mitigating and
15 aggravating factors, and activities following arrest prior to confine-
16 ment; ~~and~~ (viii) prior criminal record, including the nature and
17 pattern of offenses, adjustment to any previous probation or parole
18 supervision and institutional confinement; and (ix) all evidence of
19 rehabilitation and reform. The board shall provide toll free telephone
20 access for crime victims. In the case of an oral statement made in
21 accordance with subdivision one of section 440.50 of the criminal proce-
22 dure law, the parole board member shall present a written report of the
23 statement to the parole board. A crime victim's representative shall
24 mean the crime victim's closest surviving relative, the committee or
25 guardian of such person, or the legal representative of any such person.
26 Such statement submitted by the victim or victim's representative may
27 include information concerning threatening or intimidating conduct
28 toward the victim, the victim's representative, or the victim's family,
29 made by the person sentenced and occurring after the sentencing. Such
30 information may include, but need not be limited to, the threatening or
31 intimidating conduct of any other person who or which is directed by the
32 person sentenced. Any statement by a victim or the victim's represen-
33 tative made to the board shall be maintained by the department in the
34 file provided to the board when interviewing the inmate in consideration
35 of release. A victim or victim's representative who has submitted a
36 written request to the department for the transcript of such interview
37 shall be provided such transcript as soon as it becomes available.
38 § 2. This act shall take effect immediately.