STATE OF NEW YORK

3900

2019-2020 Regular Sessions

IN ASSEMBLY

January 31, 2019

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

AN ACT to amend the executive law, in relation to the right to counsel at parole hearings

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

Section 1. Subparagraph (i) of paragraph (a) of subdivision 2 of section 259-i of the executive law, as amended by section 38-f1 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 should be paroled in accordance with the guidelines adopted pursuant to subdivision four of section two hundred fifty-nine-c of this article. **Such inmate may be represented by an attorney at such interview. Where the inmate is financially unable to provide for his own attorney, upon request an attorney shall be assigned pursuant to the provisions of subparagraph (v) of paragraph (f) of subdivision three of this section.** 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. If the inmate is released, he 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

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

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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.

§ 2. Paragraph (a) of subdivision 2 of section 259-i of the executive law, as amended by section 38-f2 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 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. Such inmate may be represented by an attorney at such interview. Where the inmate is financially unable to provide for his own attorney, upon request an attorney shall be assigned pursuant to the provisions of subparagraph (v) of paragraph (f) of subdivision three of this section**. 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. If the inmate is released, he 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.

§ 3. This act shall take effect one year after it shall have become a law; provided that the amendments to paragraph (a) of subdivision two of section 259-i of the executive law made by section one 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 two of this act shall take effect.