

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:

1 Section 1. Subparagraph (i) of paragraph (a) of subdivision 2 of
2 section 259-i of the executive law, as amended by section 38-f1 of
3 subpart A of part C of chapter 62 of the laws of 2011, is amended to
4 read as follows:

5 (i) Except as provided in subparagraph (ii) of this paragraph, at
6 least one month prior to the date on which an inmate may be paroled
7 pursuant to subdivision one of section 70.40 of the penal law, a member
8 or members as determined by the rules of the board shall personally
9 interview such inmate and determine whether he should be paroled in
10 accordance with the guidelines adopted pursuant to subdivision four of
11 section two hundred fifty-nine-c of this article. Such inmate may be
12 represented by an attorney at such interview. Where the inmate is finan-
13 cially unable to provide for his own attorney, upon request an attorney
14 shall be assigned pursuant to the provisions of subparagraph (v) of
15 paragraph (f) of subdivision three of this section. If parole is not
16 granted upon such review, the inmate shall be informed in writing within
17 two weeks of such appearance of the factors and reasons for such denial
18 of parole. Such reasons shall be given in detail and not in conclusory
19 terms. The board shall specify a date not more than twenty-four months
20 from such determination for reconsideration, and the procedures to be
21 followed upon reconsideration shall be the same. If the inmate is
22 released, he shall be given a copy of the conditions of parole. Such
23 conditions shall where appropriate, include a requirement that the paro-
24 lee comply with any restitution order, mandatory surcharge, sex offender
25 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.

LBD08561-01-9

1 competent jurisdiction that applies to the parolee. The conditions shall
2 indicate which restitution collection agency established under subdivi-
3 sion eight of section 420.10 of the criminal procedure law, shall be
4 responsible for collection of restitution, mandatory surcharge, sex
5 offender registration fees and DNA databank fees as provided for in
6 section 60.35 of the penal law and section eighteen hundred nine of the
7 vehicle and traffic law.

8 § 2. Paragraph (a) of subdivision 2 of section 259-i of the executive
9 law, as amended by section 38-f2 of subpart A of part C of chapter 62 of
10 the laws of 2011, is amended to read as follows:

11 (a) At least one month prior to the expiration of the minimum period
12 or periods of imprisonment fixed by the court or board, a member or
13 members as determined by the rules of the board shall personally inter-
14 view an inmate serving an indeterminate sentence and determine whether
15 he should be paroled at the expiration of the minimum period or periods
16 in accordance with the procedures adopted pursuant to subdivision four
17 of section two hundred fifty-nine-c of this article. Such inmate may be
18 represented by an attorney at such interview. Where the inmate is
19 financially unable to provide for his own attorney, upon request an
20 attorney shall be assigned pursuant to the provisions of subparagraph
21 (v) of paragraph (f) of subdivision three of this section. If parole is
22 not granted upon such review, the inmate shall be informed in writing
23 within two weeks of such appearance of the factors and reasons for such
24 denial of parole. Such reasons shall be given in detail and not in
25 conclusory terms. The board shall specify a date not more than twenty-
26 four months from such determination for reconsideration, and the proce-
27 dures to be followed upon reconsideration shall be the same. If the
28 inmate is released, he shall be given a copy of the conditions of
29 parole. Such conditions shall where appropriate, include a requirement
30 that the parolee comply with any restitution order and mandatory
31 surcharge previously imposed by a court of competent jurisdiction that
32 applies to the parolee. The conditions shall indicate which restitution
33 collection agency established under subdivision eight of section 420.10
34 of the criminal procedure law, shall be responsible for collection of
35 restitution and mandatory surcharge as provided for in section 60.35 of
36 the penal law and section eighteen hundred nine of the vehicle and traf-
37 fic law.

38 § 3. This act shall take effect one year after it shall have become a
39 law; provided that the amendments to paragraph (a) of subdivision two of
40 section 259-i of the executive law made by section one of this act shall
41 be subject to the expiration and reversion of such paragraph pursuant to
42 subdivision d of section 74 of chapter 3 of the laws of 1995, as
43 amended, when upon such date the provisions of section two of this act
44 shall take effect.