STATE OF NEW YORK

4319--B

2019-2020 Regular Sessions

IN ASSEMBLY

February 4, 2019

Introduced by M. of A. WEPRIN, TAYLOR, GOTTFRIED, EPSTEIN, LENTOL, LAVINE, D. ROSENTHAL, SEAWRIGHT, DE LA ROSA, SIMON, ROZIC, LUPARDO, HEVESI, JOYNER, CARROLL, MOSLEY, FAHY, KIM, COOK, AUBRY, PERRY, O'DONNELL, BARRON, WRIGHT, L. ROSENTHAL, REYES, WALKER, QUART, SIMOTAS -- read once and referred to the Committee on Correction -- reported and referred to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the executive law, in relation to parole eligibility for certain inmates aged fifty-five or older

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

Section 1. Section 259-c of the executive law is amended by adding a new subdivision 18 to read as follows:

18. notwithstanding any other provision of law, when a person serving a determinate or indeterminate sentence of incarceration has served at least fifteen years of incarceration under such sentence and is fifty-five years of age or older, the board shall conduct a hearing pursuant to this section and section two hundred fifty-nine-i of this article to determine whether such person shall be released to community supervision, provided, however, that a person shall not be eligible for release pursuant to this subdivision if he or she is serving a sentence imposed under the penal law (a) of life imprisonment without parole; (b) upon conviction for an offense defined in section 125.26 of the penal law; (c) upon conviction for an offense defined in sections 490.25, 490.47 or 490.45 of the penal law; (d) upon conviction of one of the following specified hate crimes pursuant to subdivision three of section 485.05 of the penal law: (i) subdivision one, two or four of section 125.20 (manslaughter in the first degree); (ii) section 125.25 (murder in the second degree); (iii) subdivision one of section 125.15

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

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(manslaughter in the second degree); or (iv) subdivision one of section 130.35 (rape in the first degree); (e) of consecutive sentences of more than ninety-nine years, where the intent of such sentences was to provide the offender with a life sentence without the possibility of parole; or (f) upon a conviction for an offense defined in section 125.25 or 125.27 of the penal law, where the victim of such offense was a person described in subparagraphs (i), (ii), (ii-a), or (iii) of paragraph (a) of subdivision one of section 125.27 of the penal law. If the board determines that there is a reasonable probability that, if such person is released, he or she will live and remain at liberty without violating the law and that his or her release is not incompatible with the welfare of society, then the board shall release the person to community supervision even if the person has not served the minimum period or term of the sentence imposed by the sentencing court. If release to community supervision is not granted, the inmate shall be informed in writing within two weeks after such appearance of the factors and reasons for the denial of such release and 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 as upon such initial consideration. If release to community supervision is granted, the board shall set release conditions and the provisions of this section shall otherwise apply as though the inmate was released after the completion of his or her minimum period or term of sentence.

§ 2. This act shall take effect on the one hundred eightieth day after it shall have become a law.