

# 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:

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

3 18. notwithstanding any other provision of law, when a person serving  
4 a determinate or indeterminate sentence of incarceration has served at  
5 least fifteen years of incarceration under such sentence and is fifty-  
6 five years of age or older, the board shall conduct a hearing pursuant  
7 to this section and section two hundred fifty-nine-i of this article to  
8 determine whether such person shall be released to community super-  
9 vision, provided, however, that a person shall not be eligible for  
10 release pursuant to this subdivision if he or she is serving a sentence  
11 imposed under the penal law (a) of life imprisonment without parole; (b)  
12 upon conviction for an offense defined in section 125.26 of the penal  
13 law; (c) upon conviction for an offense defined in sections 490.25,  
14 490.47 or 490.45 of the penal law; (d) upon conviction of one of the  
15 following specified hate crimes pursuant to subdivision three of section  
16 485.05 of the penal law: (i) subdivision one, two or four of section  
17 125.20 (manslaughter in the first degree); (ii) section 125.25 (murder  
18 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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1 (manslaughter in the second degree); or (iv) subdivision one of section  
2 130.35 (rape in the first degree); (e) of consecutive sentences of more  
3 than ninety-nine years, where the intent of such sentences was to  
4 provide the offender with a life sentence without the possibility of  
5 parole; or (f) upon a conviction for an offense defined in section  
6 125.25 or 125.27 of the penal law, where the victim of such offense was  
7 a person described in subparagraphs (i), (ii), (ii-a), or (iii) of para-  
8 graph (a) of subdivision one of section 125.27 of the penal law. If the  
9 board determines that there is a reasonable probability that, if such  
10 person is released, he or she will live and remain at liberty without  
11 violating the law and that his or her release is not incompatible with  
12 the welfare of society, then the board shall release the person to  
13 community supervision even if the person has not served the minimum  
14 period or term of the sentence imposed by the sentencing court. If  
15 release to community supervision is not granted, the inmate shall be  
16 informed in writing within two weeks after such appearance of the  
17 factors and reasons for the denial of such release and the board shall  
18 specify a date not more than twenty-four months from such determination  
19 for reconsideration, and the procedures to be followed upon reconsider-  
20 ation shall be the same as upon such initial consideration. If release  
21 to community supervision is granted, the board shall set release condi-  
22 tions and the provisions of this section shall otherwise apply as though  
23 the inmate was released after the completion of his or her minimum peri-  
24 od or term of sentence.

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