

STATE OF NEW YORK

4346--A

2019-2020 Regular Sessions

IN ASSEMBLY

February 4, 2019

Introduced by M. of A. WEPRIN, TAYLOR, GOTTFRIED, EPSTEIN, LAVINE, DE LA ROSA, D. ROSENTHAL, SIMON, HEVESI, FERNANDEZ, CARROLL, MOSLEY, KIM, AUBRY, COOK, PERRY, O'DONNELL, BARRON, REYES, L. ROSENTHAL -- Multi-Sponsored by -- M. of A. LENTOL -- read once and referred to the Committee on Correction -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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

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

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

(A) Discretionary release on parole shall ~~[not]~~ be granted ~~[merely as a reward for good conduct or efficient performance of duties while confined but after considering if there is a reasonable probability that, if such inmate is released, he will live and remain at liberty without violating the law, and that his release is not incompatible with the welfare of society and will not so deprecate the seriousness of his crime as to undermine respect for law]~~ to any incarcerated person appearing before the board who is eligible for release on parole, unless the parole case record demonstrates there is a current and unreasonable risk the person will violate the law if released and such risk cannot be mitigated by parole supervision. In making the parole release decision, the procedures adopted pursuant to subdivision four of section two hundred fifty-nine-c of this article shall require that the following be considered: (i) the institutional record including program goals and accomplishments, academic achievements, vocational education, training or work assignments, therapy and interactions with staff and ~~[inmates]~~ incarcerated persons; (ii) performance, if any, as a participant in a

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

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

43 § 2. This act shall take effect immediately.