

# STATE OF NEW YORK

S. 3734

A. 5528

2019-2020 Regular Sessions

## SENATE - ASSEMBLY

February 13, 2019

IN SENATE -- Introduced by Sen. LAVALLE -- read twice and ordered printed, and when printed to be committed to the Committee on Crime Victims, Crime and Correction

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

AN ACT to amend the executive law, in relation to requiring inmates to have an acceptable residence to qualify for parole

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

1 Section 1. Subparagraph (A) of paragraph (c) of subdivision 2 of  
2 section 259-i of the executive law, as amended by chapter 130 of the  
3 laws of 2016, is amended to read as follows:  
4 (A) Discretionary release on parole shall not be granted merely as a  
5 reward for good conduct or efficient performance of duties while  
6 confined but after considering if there is a reasonable probability  
7 that, if such inmate is released, he or she will live and remain at  
8 liberty without violating the law, and that his or her release is not  
9 incompatible with the welfare of society and will not so deprecate the  
10 seriousness of his crime as to undermine respect for law. In making the  
11 parole release decision, the procedures adopted pursuant to subdivision  
12 four of section two hundred fifty-nine-c of this article shall require  
13 that the following be considered: (i) the institutional record including  
14 program goals and accomplishments, academic achievements, vocational  
15 education, training or work assignments, therapy and interactions with  
16 staff and inmates; (ii) performance, if any, as a participant in a  
17 temporary release program; (iii) release plans [~~including~~] shall  
18 include, in addition to community resources, employment, education and  
19 training and support services available to the inmate, an acceptable  
20 residence. In order for a residence to be an acceptable residence and  
21 qualify the inmate for parole release, such residence shall be a perma-

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

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1 nent residence, and not a temporary shelter including, but not limited  
2 to, a homeless shelter, motel/hotel, or trailer, and shall allow the  
3 inmate to comply with all state and local laws and regulations regarding  
4 placement of registered sex offenders; (iv) any deportation order issued  
5 by the federal government against the inmate while in the custody of the  
6 department and any recommendation regarding deportation made by the  
7 commissioner of the department pursuant to section one hundred forty-  
8 seven of the correction law; (v) any current or prior statement made to  
9 the board by the crime victim or the victim's representative, where the  
10 crime victim is deceased or is mentally or physically incapacitated;  
11 (vi) the length of the determinate sentence to which the inmate would be  
12 subject had he or she received a sentence pursuant to section 70.70 or  
13 section 70.71 of the penal law for a felony defined in article two  
14 hundred twenty or article two hundred twenty-one of the penal law; (vii)  
15 the seriousness of the offense with due consideration to the type of  
16 sentence, length of sentence and recommendations of the sentencing  
17 court, the district attorney, the attorney for the inmate, the pre-sen-  
18 tence 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 pattern  
21 of offenses, adjustment to any previous probation or parole supervision  
22 and institutional confinement. The board shall provide toll free tele-  
23 phone access for crime victims. In the case of an oral statement made in  
24 accordance with subdivision one of section 440.50 of the criminal proce-  
25 dure law, the parole board member shall present a written report of the  
26 statement to the parole board. A crime victim's representative shall  
27 mean the crime victim's closest surviving relative, the committee or  
28 guardian of such person, or the legal representative of any such person.  
29 Such statement submitted by the victim or victim's representative may  
30 include information concerning threatening or intimidating conduct  
31 toward the victim, the victim's representative, or the victim's family,  
32 made by the person sentenced and occurring after the sentencing. Such  
33 information may include, but need not be limited to, the threatening or  
34 intimidating conduct of any other person who or which is directed by the  
35 person sentenced. Any statement by a victim or the victim's represen-  
36 tative made to the board shall be maintained by the department in the  
37 file provided to the board when interviewing the inmate in consideration  
38 of release. A victim or victim's representative who has submitted a  
39 written request to the department for the transcript of such interview  
40 shall be provided such transcript as soon as it becomes available.  
41 § 2. This act shall take effect immediately.