

# STATE OF NEW YORK

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497--A

2019-2020 Regular Sessions

## IN SENATE

(Prefiled)

January 9, 2019

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Introduced by Sens. RIVERA, COMRIE, HOYLMAN, JACKSON, MONTGOMERY, MYRIE, PARKER, RAMOS, SALAZAR, SANDERS, SEPULVEDA, SERRANO, THOMAS -- read twice and ordered printed, and when printed to be committed to the Committee on Crime Victims, Crime and 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:

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~~  
5 ~~a 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 will live and remain at liberty~~  
8 ~~without violating the law, and that his release is not incompatible with~~  
9 ~~the welfare of society and will not so deprecate the seriousness of his~~  
10 ~~crime as to undermine respect for law]~~ to any incarcerated person  
11 appearing before the board who is eligible for release on parole, unless  
12 the parole case record demonstrates there is a current and unreasonable  
13 risk the person will violate the law if released and such risk cannot be  
14 mitigated by parole supervision. In making the parole release decision,  
15 the procedures adopted pursuant to subdivision four of section two  
16 hundred fifty-nine-c of this article shall require that the following be  
17 considered: (i) the institutional record including program goals and  
18 accomplishments, academic achievements, vocational education, training  
19 or work assignments, therapy and interactions with staff and [~~inmates~~]

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

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

44 § 2. This act shall take effect immediately.