

# STATE OF NEW YORK

6583

2019-2020 Regular Sessions

## IN ASSEMBLY

March 12, 2019

Introduced by M. of A. BRABENEC -- read once and referred to the Committee on Codes

AN ACT to amend the criminal procedure law, in relation to requiring that all victim impact statements in New York state be video recorded; and to amend the executive law, in relation to requiring that the members of the parole board and all presiding commissioners for such hearing review all relevant victim impact statements prior to the conduct of a parole hearing

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

1 Section 1. Paragraph (b) of subdivision 3 of section 390.30 of the  
2 criminal procedure law, as amended by chapter 618 of the laws of 1992,  
3 is amended to read as follows:  
4 (b) The report shall also contain a video recorded victim impact  
5 statement, unless it appears that such information would be of no rele-  
6 vance to the recommendation or court disposition, which shall include an  
7 analysis of the victim's version of the offense, the extent of physical,  
8 emotional or psychological injury or economic loss and the actual out-  
9 of-pocket loss to the victim and the views of the victim relating to  
10 disposition including the amount of restitution and reparation sought by  
11 the victim after the victim has been informed of the right to seek  
12 restitution and reparation, subject to the availability of such informa-  
13 tion. In the case of a homicide or where the victim is unable to assist  
14 in the preparation of the victim impact statement, the information may  
15 be acquired from the victim's family or representative. The victim  
16 impact statement shall be made available to the victim by the prosecutor  
17 pursuant to subdivision two of section 390.50 of this article. Nothing  
18 contained in this section shall be interpreted to require that a victim  
19 supply information for the preparation of this report.

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

LBD10039-01-9

1 § 2. Subdivision 1 of section 440.50 of the criminal procedure law, as  
2 amended by chapter 193 of the laws of 2017, is amended to read as  
3 follows:

4 1. Upon the request of a victim of a crime, or in any event in all  
5 cases in which the final disposition includes a conviction of a violent  
6 felony offense as defined in section 70.02 of the penal law, a felony  
7 defined in article one hundred twenty-five of such law, or a felony  
8 defined in article one hundred thirty of such law, the district attorney  
9 shall, within sixty days of the final disposition of the case, inform  
10 the victim by letter of such final disposition. If such final disposi-  
11 tion results in the commitment of the defendant to the custody of the  
12 department of corrections and community supervision for an indeterminate  
13 or combined sentence, the notice provided to the crime victim shall also  
14 inform the victim of his or her right to submit [~~a written,~~ an audio-  
15 taped, telephonic, or [~~videotaped~~ video recorded victim impact state-  
16 ment to the department of corrections and community supervision or to  
17 meet personally with a member of the state board of parole at a time and  
18 place separate from the personal interview between a member or members  
19 of the board and the inmate and make such a statement, subject to proce-  
20 dures and limitations contained in rules of the board, both pursuant to  
21 subdivision two of section two hundred fifty-nine-i of the executive  
22 law. A copy of such [~~letter~~ statement shall be provided to the board of  
23 parole and all presiding commissioners for such hearing. The right of  
24 the victim under this subdivision to submit a [~~written~~ victim impact  
25 statement in any format or to meet personally with a member of the state  
26 board of parole applies to each personal interview between a member or  
27 members of the board and the inmate.

28 § 3. Subdivision 2 of section 259-i of the executive law is amended by  
29 adding a new paragraph (f) to read as follows:

30 (f) Prior to the conduct of any parole hearing as provided in this  
31 article, the members of the board and all presiding commissioners for  
32 such hearing shall review all victim impact statements relating to the  
33 offense or offenses of which the inmate has been convicted, including  
34 victim impact statements provided in connection with the pre-sentencing  
35 report and victim impact statements provided directly to the parole  
36 board. All victim impact statements provided directly to the parole  
37 board shall be video recorded. Failure to review statements as provided  
38 in this section shall render such hearing invalid.

39 § 4. This act shall take effect on the ninetieth day after it shall  
40 have become a law. Effective immediately the addition, amendment and/or  
41 repeal of any rule or regulation necessary for the implementation of  
42 this act on its effective date are authorized to be made and completed  
43 on or before such date.