

STATE OF NEW YORK

938

2019-2020 Regular Sessions

IN ASSEMBLY

January 14, 2019

Introduced by M. of A. JONES, ENGLEBRIGHT, RIVERA, DICKENS, D'URSO, LAVINE, ARROYO, BLAKE, GIGLIO, MONTESANO, McDONOUGH, RAIA, RA -- Multi-Sponsored by -- M. of A. BARCLAY, COOK, CROUCH, HAWLEY -- read once and referred to the Committee on Correction

AN ACT to amend the executive law and the criminal procedure law, in relation to statements to the state board of 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 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. In making the parole release
11 decision, the procedures adopted pursuant to subdivision four of section
12 two hundred fifty-nine-c of this article shall require that the follow-
13 ing be considered: (i) the institutional record including program goals
14 and accomplishments, academic achievements, vocational education, train-
15 ing or work assignments, therapy and interactions with staff and
16 inmates; (ii) performance, if any, as a participant in a temporary
17 release program; (iii) release plans including community resources,
18 employment, education and training and support services available to the
19 inmate; (iv) any deportation order issued by the federal government
20 against the inmate while in the custody of the department and any recom-
21 mendation regarding deportation made by the commissioner of the depart-
22 ment pursuant to section one hundred forty-seven of the correction law;
23 (v) any current or prior statement made to the board by the crime victim

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

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1 or the victim's representative, where the crime victim is deceased or is
2 mentally or physically incapacitated; (vi) any statement in support or
3 opposition made to the board by a third party; (vii) the length of the
4 determinate sentence to which the inmate would be subject had he or she
5 received a sentence pursuant to section 70.70 or section 70.71 of the
6 penal law for a felony defined in article two hundred twenty or article
7 two hundred twenty-one of the penal law; [~~(vii)~~] (viii) the seriousness
8 of the offense with due consideration to the type of sentence, length of
9 sentence and recommendations of the sentencing court, the district
10 attorney, the attorney for the inmate, the pre-sentence probation report
11 as well as consideration of any mitigating and aggravating factors, and
12 activities following arrest prior to confinement; and [~~(viii)~~] (ix)
13 prior criminal record, including the nature and pattern of offenses,
14 adjustment to any previous probation or parole supervision and institu-
15 tional confinement. The board shall provide toll free telephone access
16 for crime victims. In the case of an oral statement made in accordance
17 with subdivision one of section 440.50 of the criminal procedure law,
18 the parole board member shall present a written report of the statement
19 to the parole board. A crime victim's representative shall mean the
20 crime victim's closest surviving relative, the committee or guardian of
21 such person, or the legal representative of any such person. Such
22 statement submitted by the victim or victim's representative may include
23 information concerning threatening or intimidating conduct toward the
24 victim, the victim's representative, or the victim's family, made by the
25 person sentenced and occurring after the sentencing. Such information
26 may include, but need not be limited to, the threatening or intimidating
27 conduct of any other person who or which is directed by the person
28 sentenced. Any statement by a victim or the victim's representative made
29 to the board shall be maintained by the department in the file provided
30 to the board when interviewing the inmate in consideration of release. A
31 victim or victim's representative who has submitted a written request to
32 the department for the transcript of such interview shall be provided
33 such transcript as soon as it becomes available.

34 § 2. Subparagraph (B) of paragraph (c) of subdivision 2 of section
35 259-i of the executive law, as separately amended by chapters 40 and 126
36 of the laws of 1999, is amended to read as follows:

37 (B) Where a crime victim or victim's representative as defined in
38 subparagraph (A) of this paragraph [~~, or other person~~] submits to the
39 parole board a written statement concerning the release of an inmate,
40 such statement shall be deemed confidential and shall only be made
41 available to the parole board [~~shall keep that individual's name and~~
42 ~~address confidential~~] for use in rendering parole decisions.

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

46 1. Upon the request of a victim of a crime, or in any event in all
47 cases in which the final disposition includes a conviction of a violent
48 felony offense as defined in section 70.02 of the penal law, a felony
49 defined in article one hundred twenty-five of such law, or a felony
50 defined in article one hundred thirty of such law, the district attorney
51 shall, within sixty days of the final disposition of the case, inform
52 the victim by letter of such final disposition. If such final disposi-
53 tion results in the commitment of the defendant to the custody of the
54 department of corrections and community supervision for an indeterminate
55 sentence, the notice provided to the crime victim shall also inform the
56 victim of his or her right to submit a written, audiotaped, or vide-

1 otaped victim impact statement to the department of corrections and
2 community supervision or to meet personally with a member of the state
3 board of parole at a time and place separate from the personal interview
4 between a member or members of the board and the inmate and make such a
5 statement, subject to procedures and limitations contained in rules of
6 the board, both pursuant to subdivision two of section two hundred
7 fifty-nine-i of the executive law. Such notice shall inform the victim
8 that a written, audiotaped, or videotaped victim impact statement shall
9 be deemed confidential and shall only be made available to the state
10 board of parole for use in rendering parole decisions. A copy of such
11 letter shall be provided to the board of parole. The right of the victim
12 under this subdivision to submit a written victim impact statement or to
13 meet personally with a member of the state board of parole applies to
14 each personal interview between a member or members of the board and the
15 inmate.

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