

# STATE OF NEW YORK

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1745

2019-2020 Regular Sessions

## IN SENATE

January 16, 2019

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

AN ACT to amend the executive law, in relation to third party statements to the parole board

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  
24 or the victim's representative, where the crime victim is deceased or is

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

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

37 § 2. This act shall take effect immediately.