STATE OF NEW YORK

508

2021-2022 Regular Sessions

IN ASSEMBLY

(Prefiled)

January 6, 2021

Introduced by M. of A. JONES, ENGLEBRIGHT, J. RIVERA, DICKENS, LAVINE, J. A. GIGLIO, MONTESANO, McDONOUGH, RA, BUTTENSCHON, B. MILLER, MANKTELOW, GRIFFIN -- Multi-Sponsored by -- M. of A. BARCLAY, COOK, 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:

Section 1. Subparagraph (A) of paragraph (c) of subdivision 2 of section 259-i of the executive law, as amended by chapter 130 of the laws of 2016, is amended to read as follows:

(A) Discretionary release on parole shall not be granted merely as a reward for good conduct or efficient performance of duties while confined but after considering if there is a reasonable probability that, if such inmate is released, he will live and remain at liberty without violating the law, and that his release is not incompatible with the welfare of society and will not so deprecate the seriousness of his crime as to undermine respect for law. In making the parole release decision, the procedures adopted pursuant to subdivision four of section two hundred fifty-nine-c of this article shall require that the following be considered: (i) the institutional record including program goals and accomplishments, academic achievements, vocational education, training or work assignments, therapy and interactions with staff and inmates; (ii) performance, if any, as a participant in a temporary release program; (iii) release plans including community resources, employment, education and training and support services available to the inmate; (iv) any deportation order issued by the federal government against the inmate while in the custody of the department and any recommendation regarding deportation made by the commissioner of the department pursuant to section one hundred forty-seven of the correction law;

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

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

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

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

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

1. Upon the request of a victim of a crime, or in any event in all cases in which the final disposition includes a conviction of a violent felony offense as defined in section 70.02 of the penal law, a felony defined in article one hundred twenty-five of such law, or a felony defined in article one hundred thirty of such law, the district attorney shall, within sixty days of the final disposition of the case, inform the victim by letter of such final disposition. If such final disposition results in the commitment of the defendant to the custody of the department of corrections and community supervision for an indeterminate sentence, the notice provided to the crime victim shall also inform the

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

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