STATE OF NEW YORK

5335

2021-2022 Regular Sessions

IN ASSEMBLY

February 12, 2021

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:

Section 1. Paragraph (b) of subdivision 3 of section 390.30 of the criminal procedure law, as amended by chapter 618 of the laws of 1992, is amended to read as follows:

(b) The report shall also contain a **video recorded** victim impact statement, unless it appears that such information would be of no relevance to the recommendation or court disposition, which shall include an analysis of the victim's version of the offense, the extent of **physical, emotional or psychological** injury or economic loss and the actual out-of-pocket loss to the victim and the views of the victim relating to disposition including the amount of restitution and reparation sought by the victim after the victim has been informed of the right to seek restitution and reparation, subject to the availability of such information. In the case of a homicide or where the victim is unable to assist in the preparation of the victim impact statement, the information may be acquired from the victim's family **or representative**. The victim impact statement shall be made available to the victim by the prosecutor pursuant to subdivision two of section 390.50 of this article. Nothing contained in this section shall be interpreted to require that a victim supply information for the preparation of this report.

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

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§ 2. 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 **or combined** sentence, the notice provided to the crime victim shall also inform the victim of his or her right to submit [~~a written,~~] **an** audiotaped, **telephonic,** or [~~videotaped~~] **video recorded** 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. A copy of such [~~letter~~] **statement** shall be provided to the board of parole **and all presiding commissioners for such hearing**. The right of the victim under this subdivision to submit a [~~written~~] victim impact statement **in any format** 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.

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

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

§ 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 date.