

# STATE OF NEW YORK

S. 5175

A. 5803

2021-2022 Regular Sessions

## SENATE - ASSEMBLY

February 25, 2021

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

IN ASSEMBLY -- Introduced by M. of A. THIELE, PALMESANO, MAGNARELLI, STIRPE, WOERNER, BRABENEC, RA, J. M. GIGLIO, LALOR, HAWLEY, FITZPATRICK, BLANKENBUSH, GOODELL, DiPIETRO, DILAN, COLTON, JONES, BUTTENSCHON, TAGUE, GRIFFIN -- Multi-Sponsored by -- M. of A. BARCLAY, BYRNE, FRIEND, McDONOUGH, B. MILLER, M. MILLER, MONTESANO, MORINELLO, NORRIS, WALSH -- read once and referred to the Committee on Correction

AN ACT to amend the executive law, in relation to the time in which reconsideration for parole shall be determined in the case of convictions for murder in the first degree, aggravated murder, and murder in the second degree, where a sentence other than death or life imprisonment without parole is imposed

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

1 Section 1. This act shall be known and may be cited as "Lorraine's  
2 Law".  
3 § 2. Legislative findings and intent. This legislation is named in the  
4 memory of Lorraine Miranda who was a native of Shirley, Long Island.  
5 Despite being afflicted with Cerebral Palsy, she graduated from high  
6 school, moved to Staten Island, New York and worked tirelessly to help  
7 disabled children at the Port Richmond branch of United Cerebral Palsy  
8 of New York while attending college at night. She was engaged and was  
9 planning her wedding. In a tragic turn, Lorraine Miranda was brutally  
10 murdered by her fiancée on December 5, 1988. She was only 24 years old.  
11 Her killer was sentenced to 15 years to life in prison. He became eligi-  
12 ble for parole in 2003 and has since been denied seven times.  
13 Currently when parole is denied, the Parole Board has the discretion  
14 to set the date for reconsideration for parole for any date within two

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

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1 years of the denial of parole. In many cases, especially those involving  
2 heinous acts of murder in the first degree, aggravated murder, and  
3 murder in the second degree, parole will be denied numerous times.  
4 However, each time an inmate is considered for parole, the victim's  
5 family must relive the horror of the crime for the sake of impressing  
6 upon the Parole Board the inappropriateness of early release. Lorraine  
7 Miranda's mother, who has been diagnosed with post-traumatic stress  
8 syndrome, has stated that the agony of reliving her daughter's death  
9 every 24 months is unbearable and is a major trigger of panic symptoms  
10 which interfere with her quality of life.

11 It is not the intent of "Lorraine's Law" to in any way infringe upon  
12 the Parole Board's ability to allow for the current 24-month reconsider-  
13 ation period. It merely provides another option for the board to consid-  
14 er if it is apparent that nothing could transpire in the next five years  
15 that would cause them to render a different opinion regarding parole  
16 release. Only in these cases would the board have the ability to set the  
17 date for reconsideration anywhere between 24-months and 60-months which  
18 would afford grieving families a greater period of peace before having  
19 to testify at the next parole hearing.

20 § 3. Subparagraph (i) of paragraph (a) of subdivision 2 of section  
21 259-i of the executive law, as amended by section 38-f-1 of subpart A of  
22 part C of chapter 62 of the laws of 2011, is amended to read as follows:

23 (i) Except as provided in subparagraph (ii) of this paragraph, at  
24 least one month prior to the date on which an inmate may be paroled  
25 pursuant to subdivision one of section 70.40 of the penal law, a member  
26 or members as determined by the rules of the board shall personally  
27 interview such inmate and determine whether he or she should be paroled  
28 in accordance with the guidelines adopted pursuant to subdivision four  
29 of section two hundred fifty-nine-c of this article. If parole is not  
30 granted upon such review, the inmate shall be informed in writing within  
31 two weeks of such appearance of the factors and reasons for such denial  
32 of parole. Such reasons shall be given in detail and not in conclusory  
33 terms. The board shall specify a date not more than twenty-four months  
34 from such determination for reconsideration, and the procedures to be  
35 followed upon reconsideration shall be the same, however in the case of  
36 a defendant sentenced for an eligible class A felony, the board shall  
37 specify a date not more than sixty months from such determination for  
38 reconsideration and the procedures to be followed for reconsideration  
39 shall be the same. For the purposes of this section an "eligible class A  
40 felony" shall mean a conviction for the class A-I felonies of: murder in  
41 the first degree as defined in section 125.27 of the penal law where a  
42 sentence other than death or life imprisonment without parole is  
43 imposed; aggravated murder as defined in section 125.26 of the penal law  
44 where a sentence other than death or life imprisonment without parole is  
45 imposed; and murder in the second degree as defined in section 125.25 of  
46 the penal law where a sentence other than life imprisonment without  
47 parole is imposed. If the inmate is released, he or she shall be given  
48 a copy of the conditions of parole. Such conditions shall where appro-  
49 priate, include a requirement that the parolee comply with any restitu-  
50 tion order, mandatory surcharge, sex offender registration fee and DNA  
51 databank fee previously imposed by a court of competent jurisdiction  
52 that applies to the parolee. The conditions shall indicate which resti-  
53 tution collection agency established under subdivision eight of section  
54 420.10 of the criminal procedure law, shall be responsible for  
55 collection of restitution, mandatory surcharge, sex offender registra-  
56 tion fees and DNA databank fees as provided for in section 60.35 of the

1 penal law and section eighteen hundred nine of the vehicle and traffic  
2 law.

3 § 4. Paragraph (a) of subdivision 2 of section 259-i of the executive  
4 law, as amended by section 38-f-2 of subpart A of part C of chapter 62  
5 of the laws of 2011, is amended to read as follows:

6 (a) At least one month prior to the expiration of the minimum period  
7 or periods of imprisonment fixed by the court or board, a member or  
8 members as determined by the rules of the board shall personally inter-  
9 view an inmate serving an indeterminate sentence and determine whether  
10 he or she should be paroled at the expiration of the minimum period or  
11 periods in accordance with the procedures adopted pursuant to subdivi-  
12 sion four of section two hundred fifty-nine-c of this article. If parole  
13 is not granted upon such review, the inmate shall be informed in writing  
14 within two weeks of such appearance of the factors and reasons for such  
15 denial of parole. Such reasons shall be given in detail and not in  
16 conclusory terms. The board shall specify a date not more than twenty-  
17 four months from such determination for reconsideration, and the proce-  
18 dures to be followed upon reconsideration shall be the same, however in  
19 the case of a defendant sentenced for an eligible class A felony, the  
20 board shall specify a date not more than sixty months from such determi-  
21 nation for reconsideration, and the procedures to be followed for recon-  
22 sideration shall be the same. For the purposes of this section an  
23 "eligible class A felony" shall mean a conviction for the class A-I  
24 felonies of: murder in the first degree as defined in section 125.27 of  
25 the penal law where a sentence other than death or life imprisonment  
26 without parole is imposed; aggravated murder as defined in section  
27 125.26 of the penal law where a sentence other than death or life impri-  
28 sonment without parole is imposed; and murder in the second degree as  
29 defined in section 125.25 of the penal law where a sentence other than  
30 life imprisonment without parole is imposed. If the inmate is released,  
31 he or she shall be given a copy of the conditions of parole. Such condi-  
32 tions shall where appropriate, include a requirement that the parolee  
33 comply with any restitution order and mandatory surcharge previously  
34 imposed by a court of competent jurisdiction that applies to the paro-  
35 lee. The conditions shall indicate which restitution collection agency  
36 established under subdivision eight of section 420.10 of the criminal  
37 procedure law, shall be responsible for collection of restitution and  
38 mandatory surcharge as provided for in section 60.35 of the penal law  
39 and section eighteen hundred nine of the vehicle and traffic law.

40 § 5. This act shall take effect immediately and shall apply to all  
41 future and currently incarcerated individuals sentenced for an eligible  
42 class A felony; provided that the amendments to subparagraph (i) of  
43 paragraph (a) of subdivision 2 of section 259-i of the executive law  
44 made by section three of this act shall be subject to the expiration and  
45 reversion of such paragraph pursuant to subdivision d of section 74 of  
46 chapter 3 of the laws of 1995, as amended, when upon such date the  
47 provisions of section four of this act shall take effect.