

STATE OF NEW YORK

8812

IN ASSEMBLY

January 12, 2022

Introduced by M. of A. THIELE -- read once and referred to the Committee on Governmental Operations

AN ACT to amend the executive law and the criminal procedure law, in relation to providing notice to the crime victim or victim's representative that a parolee or releasee is being discharged or released

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

1 Section 1. Section 259-j of the executive law, as amended by section
2 38-g of subpart A of part C of chapter 62 of the laws of 2011, is
3 amended to read as follows:

4 § 259-j. Discharge of sentence. 1. Except where a determinate sentence
5 was imposed for a felony other than a felony defined in article two
6 hundred twenty or article two hundred twenty-one of the penal law, if
7 the board of parole is satisfied that an absolute discharge from
8 presumptive release, parole, conditional release or release to a period
9 of post-release supervision is in the best interests of society, the
10 board may grant such a discharge prior to the expiration of the full
11 term or maximum term to any person who has been on unrevoked community
12 supervision for at least three consecutive years. A discharge granted
13 under this section shall constitute a termination of the sentence with
14 respect to which it was granted. No such discharge shall be granted
15 unless: (a) the board is satisfied that the parolee or releasee, other-
16 wise financially able to comply with an order of restitution and the
17 payment of any mandatory surcharge, sex offender registration fee or DNA
18 databank fee previously imposed by a court of competent jurisdiction,
19 has made a good faith effort to comply therewith; (b) the crime victim
20 or victim's representative is provided notice that the discharged paro-
21 lee or releasee is having his or her sentence discharged; and (c) the
22 board considers any current or former statements made to it by a crime
23 victim or victim's representative pursuant to paragraph (c) of subdivi-
24 sion two of section two hundred fifty-nine-i of this article.

25 2. The chairman of the board of parole shall promulgate rules and
26 regulations governing: (a) the issuance of discharges from community
27 supervision pursuant to this section to assure that such discharges are

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

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1 consistent with public safety; and (b) the notice provided to the crime
2 victim or victim's representative that the parolee or releasee is being
3 discharged from community supervision.

4 3. Notwithstanding any other provision of this section to the contra-
5 ry, where a term of post-release supervision in excess of five years has
6 been imposed on a person convicted of a crime defined in article one
7 hundred thirty of the penal law, including a sexually motivated felony,
8 the board of parole may grant a discharge from post-release supervision
9 prior to the expiration of the maximum term of post-release supervision.
10 Such a discharge may be granted only after the person has served at
11 least five years of post-release supervision, and only to a person who
12 has been on unrevoked post-release supervision for at least three
13 consecutive years. No such discharge shall be granted unless the board
14 of parole or the department acting pursuant to its responsibility under
15 subdivision one of section two hundred one of the correction law
16 consults with any licensed psychologist, qualified psychiatrist, or
17 other mental health professional who is providing care or treatment to
18 the supervisee; and the board: (a) determines that a discharge from
19 post-release supervision is in the best interests of society; ~~[and]~~ (b)
20 is satisfied that the supervisee, otherwise financially able to comply
21 with an order of restitution and the payment of any mandatory surcharge,
22 sex offender registration fee, or DNA ~~[data-bank]~~ databank fee previous-
23 ly imposed by a court of competent jurisdiction, has made a good faith
24 effort to comply therewith; (c) notifies the crime victim or victim's
25 representative that the individual is being released from post-release
26 supervision; and (d) considers any current or prior statements made to
27 it by a crime victim or victim's representatives pursuant to paragraph
28 (c) of subdivision two of section two hundred fifty-nine-i of this arti-
29 cle. Before making a determination to discharge a person from a period
30 of post-release supervision, the board of parole may request that the
31 commissioner of the office of mental health arrange a psychiatric evalu-
32 ation of the supervisee. A discharge granted under this section shall
33 constitute a termination of the sentence with respect to which it was
34 granted.

35 § 2. Section 410.90 of the criminal procedure law is amended by adding
36 a new subdivision 4 to read as follows:

37 4. In no event may a court terminate a period of probation or a life-
38 time probation pursuant to this section unless:

39 (a) notice is provided to the crime victim or the victim's represen-
40 tative that the defendant's probation is being terminated; and

41 (b) the court considers any current or former statements made by the
42 crime victim or victim's representative pursuant to paragraph (c) of
43 subdivision two of section two hundred fifty-nine-i of the executive
44 law.

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