

# STATE OF NEW YORK

9048

## IN ASSEMBLY

January 31, 2022

Introduced by M. of A. LAWLER -- read once and referred to the Committee on 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 322 of the  
3 laws of 2021 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 incarcerated individual is released, he or she will live  
8 and remain at liberty without violating the law, and that his or her  
9 release is not incompatible with the welfare of society and will not so  
10 deprecate the seriousness of his or her crime as to undermine respect  
11 for law. In making the parole release decision, the procedures adopted  
12 pursuant to subdivision four of section two hundred fifty-nine-c of this  
13 article shall require that the following be considered: (i) the institu-  
14 tional record including program goals and accomplishments, academic  
15 achievements, vocational education, training or work assignments, thera-  
16 py and interactions with staff and incarcerated individuals; (ii)  
17 performance, if any, as a participant in a temporary release program;  
18 (iii) release plans including community resources, employment, education  
19 and training and support services available to the incarcerated individ-  
20 ual; (iv) any deportation order issued by the federal government against  
21 the incarcerated individual while in the custody of the department and  
22 any recommendation regarding deportation made by the commissioner of the  
23 department pursuant to section one hundred forty-seven of the correction  
24 law; (v) any current or prior statement made to the board by the crime  
25 victim or the victim's representative, where the crime victim is  
26 deceased or is mentally or physically incapacitated; (vi) the length of  
27 the determinate sentence to which the incarcerated individual would be  
28 subject had he or she received a sentence pursuant to section 70.70 or

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

LBD04128-02-2

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