STATE OF NEW YORK

7597

2021-2022 Regular Sessions

IN SENATE

December 15, 2021

Introduced by Sen. RATH -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the executive law, in relation to appeals 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. Subdivision 4 of section 259-I of the executive law, as added by chapter 904 of the laws of 1977, paragraph (a) as amended by section 11 of part E of chapter 62 of the laws of 2003, paragraph (b) as amended by chapter 322 of the laws of 2021, and paragraph (c) as amended by chapter 44 of the laws of 2018, is amended to read as follows:

4. Appeals. (a) Except for determinations made upon preliminary hearings upon allegations of violation of presumptive release, parole, conditional release or post-release supervision, all determinations made pursuant to this section may be appealed in accordance with rules promulgated by the board. Any board member who participated in the decision from which the appeal is taken may not participate in the resolution of that appeal. The rules of the board may specify a time within which any appeal shall be taken and resolved.

(b) Upon an appeal to the board, the incarcerated individual may be represented by an attorney. Where the incarcerated individual is financially unable to provide for his or her own attorney, upon request an attorney shall be assigned pursuant to the provisions of subparagraph (v) of paragraph (f) of subdivision three of this section.

(c) **Where the board has made a determination granting discretionary release to an incarcerated individual pursuant to this section, the crime victim or the victim's representative, where the crime victim is deceased or is mentally or physically incapacitated, has the right to file an appeal of such determination in accordance with rules promulgated by the board.**

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

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(d) All board of parole administrative appeal findings and recommendations shall be published within one hundred twenty days of the determination on a publicly accessible website that includes a word-searchable database. The department of corrections and community supervision shall provide electronic or print copies of such findings and recommendations to all correctional facility law libraries on a quarterly basis. Copies of such individual findings and recommendations shall also be made available upon written request to the department of corrections and community supervision. Information which would reveal confidential material that may not be released pursuant to federal or state law shall be redacted from any such website or findings and recommendations.

§ 2. This act shall take effect immediately.