

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.