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:

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

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

2. The chairman of the board of parole shall promulgate rules and regulations governing**: (a)** the issuance of discharges from community 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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consistent with public safety**; and (b) the notice provided to the crime victim or victim's representative that the parolee or releasee is being discharged from community supervision**.

3. Notwithstanding any other provision of this section to the contrary, where a term of post-release supervision in excess of five years has been imposed on a person convicted of a crime defined in article one hundred thirty of the penal law, including a sexually motivated felony, the board of parole may grant a discharge from post-release supervision prior to the expiration of the maximum term of post-release supervision. Such a discharge may be granted only after the person has served at least five years of post-release supervision, and only to a person who has been on unrevoked post-release supervision for at least three consecutive years. No such discharge shall be granted unless the board of parole or the department acting pursuant to its responsibility under subdivision one of section two hundred one of the correction law consults with any licensed psychologist, qualified psychiatrist, or other mental health professional who is providing care or treatment to the supervisee; and the board: (a) determines that a discharge from post-release supervision is in the best interests of society; [~~and~~] (b) is satisfied that the supervisee, otherwise financially able to comply with an order of restitution and the payment of any mandatory surcharge, sex offender registration fee, or DNA [~~data bank~~] **databank** fee previously imposed by a court of competent jurisdiction, has made a good faith effort to comply therewith**; (c) notifies the crime victim or victim's representative that the individual is being released from post-release supervision; and (d) considers any current or prior statements made to it by a crime victim or victim's representatives pursuant to paragraph (c) of subdivision two of section two hundred fifty-nine-i of this article**. Before making a determination to discharge a person from a period of post-release supervision, the board of parole may request that the commissioner of the office of mental health arrange a psychiatric evaluation of the supervisee. A discharge granted under this section shall constitute a termination of the sentence with respect to which it was granted.

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

4. In no event may a court terminate a period of probation or a lifetime probation pursuant to this section unless:

(a) notice is provided to the crime victim or the victim's representative that the defendant's probation is being terminated; and

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

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