

# STATE OF NEW YORK

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2261

2021-2022 Regular Sessions

## IN SENATE

January 20, 2021

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Introduced by Sen. GALLIVAN -- read twice and ordered printed, and when printed to be committed to the Committee on Crime Victims, Crime and 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 130 of the  
3 laws of 2016, 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 inmate is released, he or she will live and remain at  
8 liberty without violating the law, and that his or her release is not  
9 incompatible with the welfare of society and will not so deprecate the  
10 seriousness of his or her crime as to undermine respect for law. In  
11 making the parole release decision, the procedures adopted pursuant to  
12 subdivision four of section two hundred fifty-nine-c of this article  
13 shall require that the following be considered: (i) the institutional  
14 record including program goals and accomplishments, academic achieve-  
15 ments, vocational education, training or work assignments, therapy and  
16 interactions with staff and inmates; (ii) performance, if any, as a  
17 participant in a temporary release program; (iii) release plans includ-  
18 ing community resources, employment, education and training and support  
19 services available to the inmate; (iv) any deportation order issued by  
20 the federal government against the inmate while in the custody of the  
21 department and any recommendation regarding deportation made by the  
22 commissioner of the department pursuant to section one hundred forty-  
23 seven of the correction law; (v) any current or prior statement made to  
24 the board by the crime victim or the victim's representative, where the

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

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1 crime victim is deceased or is mentally or physically incapacitated;  
2 (vi) the length of the determinate sentence to which the inmate would be  
3 subject had he or she received a sentence pursuant to section 70.70 or  
4 section 70.71 of the penal law for a felony defined in article two  
5 hundred twenty or article two hundred twenty-one of the penal law; (vii)  
6 the seriousness of the offense with due consideration to the type of  
7 sentence, length of sentence and recommendations of the sentencing  
8 court, the district attorney, the attorney for the inmate, the pre-sen-  
9 tence probation report as well as consideration of any mitigating and  
10 aggravating factors, and activities following arrest prior to confine-  
11 ment; and (viii) prior criminal record, including the nature and pattern  
12 of offenses, adjustment to any previous probation or parole supervision  
13 and institutional confinement. The board shall provide toll free tele-  
14 phone access for crime victims. In the case of an oral statement made in  
15 accordance with subdivision one of section 440.50 of the criminal proce-  
16 dure law, the parole board member shall present a written report of the  
17 statement to the parole board. A crime victim's representative shall  
18 mean the crime victim's closest surviving relative, the committee or  
19 guardian of such person, or the legal representative of any such person.  
20 Such statement submitted by the victim or victim's representative may  
21 include information concerning threatening or intimidating conduct  
22 toward the victim, the victim's representative, or the victim's family,  
23 made by the person sentenced and occurring after the sentencing. Such  
24 information may include, but need not be limited to, the threatening or  
25 intimidating conduct of any other person who or which is directed by the  
26 person sentenced. Any statement by a victim or the victim's represen-  
27 tative made to the board shall be maintained by the department in the  
28 file provided to the board when interviewing the inmate in consideration  
29 of release. A victim or victim's representative who has submitted a  
30 written request to the department for the transcript of such interview  
31 shall be provided such transcript as soon as it becomes available. Any  
32 person interested in the grant or denial of discretionary release under  
33 this subdivision shall have the right to submit a written statement of  
34 views in support of or in opposition to the granting of discretionary  
35 release which the board may consider, except that the board may exclude  
36 from consideration information which is irrelevant or unreliable.

37 § 2. This act shall take effect immediately.