

STATE OF NEW YORK

6391

2021-2022 Regular Sessions

IN SENATE

April 26, 2021

Introduced by Sen. SEPULVEDA -- 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 modifying the factors to be considered when making a parole release decision

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~~] incarcerated people; (ii) perform-
17 ance, if any, as a participant in a temporary release program; (iii)
18 release plans including community resources, employment, education and
19 training and support services available to the [~~inmate~~] incarcerated
20 person; (iv) any deportation order issued by the federal government
21 against the inmate while in the custody of the department and any recom-
22 mendation regarding deportation made by the commissioner of the depart-
23 ment pursuant to section one hundred forty-seven of the correction law;
24 (v) any current or prior statement made to the board by the crime victim

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

LBD10947-01-1

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

34 § 2. This act shall take effect immediately.