STATE OF NEW YORK

5225

2023-2024 Regular Sessions

IN ASSEMBLY

March 7, 2023

Introduced by M. of A. BARCLAY, J. M. GIGLIO, GOODELL, PALMESANO, WALSH, MANKTELOW, REILLY, FRIEND, DiPIETRO, DeSTEFANO, BRABENEC, MORINELLO, NORRIS, RA, TAGUE, HAWLEY, McDONOUGH, BYRNES, MIKULIN, BLANKENBUSH, GALLAHAN, SIMPSON, LEMONDES, FITZPATRICK, MILLER, TANNOUSIS -- Multi-Sponsored by -- M. of A. K. BROWN -- read once and referred to the Committee on Correction

AN ACT to amend the executive law, in relation to the state board of parole membership, interviews with incarcerated individuals, and determination of parole

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision 6 of section 259-b of the executive law, as amended by section 38-a of subpart A of part C of chapter 62 of the laws of 2011, is amended to read as follows:

6. Any member of the board may be removed by the governor [~~for cause after an opportunity to be heard~~] **or by a majority vote in the senate and the assembly**.

§ 2. Subparagraph (i) of paragraph (a) of subdivision 2 of section 259-i of the executive law, as amended by chapter 486 of the laws of 2022, is amended to read as follows:

(i) Except as provided in subparagraph (ii) of this paragraph, at least one month prior to the date on which an incarcerated individual may be paroled pursuant to subdivision one of section 70.40 of the penal law, a [~~member or~~] **minimum of three or more** members as determined by the rules of the board shall personally interview such incarcerated individual and determine whether he or she should be paroled in accordance with the guidelines adopted pursuant to subdivision four of section two hundred fifty-nine-c of this article. **Such determination to parole such incarcerated individual shall be unanimous by agreement of the board.** If parole is not granted upon such review, the incarcerated individual shall be informed in writing within two weeks of such appearance of the

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

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factors and reasons for such denial of parole. Such reasons shall be given in detail and not in conclusory terms. The board shall specify a date not more than twenty-four months from such determination for reconsideration, and the procedures to be followed upon reconsideration shall be the same. If the incarcerated individual is released, he or she shall be given a copy of the conditions of parole. Such conditions shall where appropriate, include a requirement that the parolee comply with any restitution order, mandatory surcharge, sex offender registration fee and DNA databank fee previously imposed by a court of competent jurisdiction that applies to the parolee. The conditions shall indicate which restitution collection agency established under subdivision eight of section 420.10 of the criminal procedure law, shall be responsible for collection of restitution, mandatory surcharge, sex offender registration fees and DNA databank fees as provided for in section 60.35 of the penal law and section eighteen hundred nine of the vehicle and traffic law. If the incarcerated individual is released, he or she shall also be notified in writing that his or her voting rights will be restored upon release.

§ 3. Paragraph (a) of subdivision 2 of section 259-i of the executive law, as amended by chapter 486 of the laws of 2022, is amended to read as follows:

(a) At least one month prior to the expiration of the minimum period or periods of imprisonment fixed by the court or board, a [~~member or~~] **minimum of three or more** members as determined by the rules of the board shall personally interview an incarcerated individual serving an indeterminate sentence and determine whether he or she should be paroled at the expiration of the minimum period or periods in accordance with the procedures adopted pursuant to subdivision four of section two hundred fifty-nine-c of this article. **Such determination to parole such incarcerated individual shall be unanimous by agreement of the board.** If parole is not granted upon such review, the incarcerated individual shall be informed in writing within two weeks of such appearance of the factors and reasons for such denial of parole. Such reasons shall be given in detail and not in conclusory terms. The board shall specify a date not more than twenty-four months from such determination for reconsideration, and the procedures to be followed upon reconsideration shall be the same. If the incarcerated individual is released, he or she shall be given a copy of the conditions of parole. Such conditions shall where appropriate, include a requirement that the parolee comply with any restitution order and mandatory surcharge previously imposed by a court of competent jurisdiction that applies to the parolee. The conditions shall indicate which restitution collection agency established under subdivision eight of section 420.10 of the criminal procedure law, shall be responsible for collection of restitution and mandatory surcharge as provided for in section 60.35 of the penal law and section eighteen hundred nine of the vehicle and traffic law. If the incarcerated individual is released, he or she shall also be notified in writing that his or her voting rights will be restored upon release.

§ 4. This act shall take effect immediately, provided that the amendments to paragraph (a) of subdivision 2 of section 259-i of the executive law made by section two of this act shall be subject to the expiration and reversion of such paragraph pursuant to subdivision d of section 74 of chapter 3 of the laws of 1995, as amended, when upon such date the provisions of section three of this act shall take effect.