

STATE OF NEW YORK

5548

2023-2024 Regular Sessions

IN ASSEMBLY

March 16, 2023

Introduced by M. of A. BRABENEC -- read once and referred to the Committee on Codes

AN ACT to amend the criminal procedure law, in relation to requiring that all victim impact statements in New York state be video recorded; and to amend the executive law, in relation to requiring that the members of the parole board and all presiding commissioners for such hearing review all relevant victim impact statements prior to the conduct of a parole hearing

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

1 Section 1. Paragraph (b) of subdivision 3 of section 390.30 of the
2 criminal procedure law, as amended by chapter 618 of the laws of 1992,
3 is amended to read as follows:
4 (b) The report shall also contain a video recorded victim impact
5 statement, unless it appears that such information would be of no rele-
6 vance to the recommendation or court disposition, which shall include an
7 analysis of the victim's version of the offense, the extent of physical,
8 emotional or psychological injury or economic loss and the actual out-
9 of-pocket loss to the victim and the views of the victim relating to
10 disposition including the amount of restitution and reparation sought by
11 the victim after the victim has been informed of the right to seek
12 restitution and reparation, subject to the availability of such informa-
13 tion. In the case of a homicide or where the victim is unable to assist
14 in the preparation of the victim impact statement, the information may
15 be acquired from the victim's family or representative. The victim
16 impact statement shall be made available to the victim by the prosecutor
17 pursuant to subdivision two of section 390.50 of this article. Nothing
18 contained in this section shall be interpreted to require that a victim
19 supply information for the preparation of this report.

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

LBD04782-01-3

1 § 2. Subdivision 1 of section 440.50 of the criminal procedure law, as
2 amended by chapter 322 of the laws of 2021, is amended to read as
3 follows:

4 1. Upon the request of a victim of a crime, or in any event in all
5 cases in which the final disposition includes a conviction of a violent
6 felony offense as defined in section 70.02 of the penal law, a felony
7 defined in article one hundred twenty-five of such law, or a felony
8 defined in article one hundred thirty of such law, the district attorney
9 shall, within sixty days of the final disposition of the case, inform
10 the victim by letter of such final disposition. If such final disposi-
11 tion results in the commitment of the defendant to the custody of the
12 department of corrections and community supervision for an indeterminate
13 or combined sentence, the notice provided to the crime victim shall also
14 inform the victim of his or her right to submit [~~a written,~~ an audio-
15 taped, or [~~videotaped~~ video recorded victim impact statement to the
16 department of corrections and community supervision or to meet
17 personally with a member of the state board of parole at a time and
18 place separate from the personal interview between a member or members
19 of the board and the incarcerated individual and make such a statement,
20 subject to procedures and limitations contained in rules of the board,
21 both pursuant to subdivision two of section two hundred fifty-nine-i of
22 the executive law. A copy of such [~~letter~~ statement shall be provided
23 to the board of parole and all presiding commissioners for such hearing.
24 The right of the victim under this subdivision to submit a [~~written~~]
25 victim impact statement in any format or to meet personally with a
26 member of the state board of parole applies to each personal interview
27 between a member or members of the board and the incarcerated individ-
28 ual.

29 § 3. Subdivision 2 of section 259-i of the executive law is amended by
30 adding a new paragraph (f) to read as follows:

31 (f) Prior to the conduct of any parole hearing as provided in this
32 article, the members of the board and all presiding commissioners for
33 such hearing shall review all victim impact statements relating to the
34 offense or offenses of which the incarcerated individual has been
35 convicted, including victim impact statements provided in connection
36 with the pre-sentencing report and victim impact statements provided
37 directly to the parole board. All victim impact statements provided
38 directly to the parole board shall be video recorded. Failure to review
39 statements as provided in this section shall render such hearing inval-
40 id.

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