

# STATE OF NEW YORK

6459--A

2023-2024 Regular Sessions

## IN ASSEMBLY

April 11, 2023

Introduced by M. of A. McDONALD, BRABENEC, BURDICK, ZEBROWSKI, GUNTHER, WOERNER, COLTON, ZACCARO, BENDETT, ANGELINO, K. BROWN, DeSTEFANO, MCGOWAN -- read once and referred to the Committee on Codes -- recommitted to the Committee on Codes in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the criminal procedure law, in relation to allowing 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 victim impact statement, unless it  
5 appears that such information would be of no relevance to the recommen-  
6 dation or court disposition, which shall include an analysis of the  
7 victim's version of the offense, the extent of injury or economic loss  
8 and the actual out-of-pocket loss to the victim and the views of the  
9 victim relating to disposition including the amount of restitution and  
10 reparation sought by the victim after the victim has been informed of  
11 the right to seek restitution and reparation, subject to the availabili-  
12 ty of such information. In the case of a homicide or where the victim is  
13 unable to assist in the preparation of the victim impact statement, the  
14 information may be acquired from the victim's family or representative.  
15 The victim impact statement shall be made available to the victim by the  
16 prosecutor pursuant to subdivision two of section 390.50 of this arti-

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

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1 cle. Nothing contained in this section shall be interpreted to require  
2 that a victim supply information for the preparation of this report.

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

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

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

34 (f) Prior to the conduct of any parole hearing as provided in this  
35 article, the members of the board and all presiding commissioners for  
36 such hearing shall review all victim impact statements relating to the  
37 offense or offenses of which the incarcerated individual has been  
38 convicted, including victim impact statements provided in connection  
39 with the pre-sentencing report and victim impact statements provided  
40 directly to the parole board. The presiding commissioners and members  
41 of the board that participate in the hearing shall sign a written attes-  
42 tation confirming that they have reviewed the victim impact statements  
43 prior to the hearing.

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