

STATE OF NEW YORK

8259

2023-2024 Regular Sessions

IN ASSEMBLY

November 15, 2023

Introduced by M. of A. PALMESANO, BARCLAY, ANGELINO, BRABENEC, BYRNES, DiPIETRO, FLOOD, FRIEND, GALLAHAN, GANDOLFO, J. M. GIGLIO, GRAY, HAWLEY, JENSEN, MANKTELOW, McDONOUGH, SLATER, TAGUE -- read once and referred to the Committee on Correction

AN ACT to amend the executive law, in relation to extending the maximum number of months for the reconsideration of denied applications for parole for certain violent felony offenses

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

1 Section 1. Subparagraph (i) of paragraph (a) of subdivision 2 of
2 section 259-i of the executive law, as amended by chapter 486 of the
3 laws of 2022, is amended to read as follows:
4 (i) Except as provided in subparagraph (ii) of this paragraph, at
5 least one month prior to the date on which an incarcerated individual
6 may be paroled pursuant to subdivision one of section 70.40 of the penal
7 law, a member or members as determined by the rules of the board shall
8 personally interview such incarcerated individual and determine whether
9 he or she should be paroled in accordance with the guidelines adopted
10 pursuant to subdivision four of section two hundred fifty-nine-c of this
11 article. If parole is not granted upon such review, the incarcerated
12 individual shall be informed in writing within two weeks of such appear-
13 ance of the factors and reasons for such denial of parole. Such reasons
14 shall be given in detail and not in conclusory terms. The board shall
15 specify a date not more than twenty-four months from such determination
16 for reconsideration, and the procedures to be followed upon reconsider-
17 ation shall be the same, provided, however in the case of a defendant
18 sentenced for an eligible violent felony offense, the board shall speci-
19 fy a date not more than sixty months from such determination for recon-
20 sideration and the procedures to be followed for reconsideration shall
21 be the same. For the purposes of this section an "eligible violent felo-
22 ny offense" shall mean a conviction for the class A-I felonies of:

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

LBD10887-01-3

1 murder in the first degree as defined in section 125.27 of the penal law
2 where a sentence other than death or life imprisonment without parole is
3 imposed; aggravated murder as defined in section 125.26 of the penal law
4 where a sentence other than death or life imprisonment without parole is
5 imposed; murder in the second degree as defined in section 125.25 of the
6 penal law where a sentence other than life imprisonment without parole
7 is imposed; the class A-II felonies of predatory sexual assault as
8 defined in section 130.95 of the penal law and predatory sexual assault
9 against a child as defined in section 130.96 of the penal law; and a
10 conviction for a class B violent felony offense as defined in section
11 70.02 of the penal law for those offenders sentenced to an indeterminate
12 sentence. If the incarcerated individual is released, he or she shall
13 be given a copy of the conditions of parole. Such conditions shall where
14 appropriate, include a requirement that the parolee comply with any
15 restitution order, mandatory surcharge, sex offender registration fee
16 and DNA databank fee previously imposed by a court of competent juris-
17 diction that applies to the parolee. The conditions shall indicate which
18 restitution collection agency established under subdivision eight of
19 section 420.10 of the criminal procedure law, shall be responsible for
20 collection of restitution, mandatory surcharge, sex offender registra-
21 tion fees and DNA databank fees as provided for in section 60.35 of the
22 penal law and section eighteen hundred nine of the vehicle and traffic
23 law. If the incarcerated individual is released, he or she shall also be
24 notified in writing that his or her voting rights will be restored upon
25 release.

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

29 (a) At least one month prior to the expiration of the minimum period
30 or periods of imprisonment fixed by the court or board, a member or
31 members as determined by the rules of the board shall personally inter-
32 view an incarcerated individual serving an indeterminate sentence and
33 determine whether he or she should be paroled at the expiration of the
34 minimum period or periods in accordance with the procedures adopted
35 pursuant to subdivision four of section two hundred fifty-nine-c of this
36 article. If parole is not granted upon such review, the incarcerated
37 individual shall be informed in writing within two weeks of such appear-
38 ance of the factors and reasons for such denial of parole. Such reasons
39 shall be given in detail and not in conclusory terms. The board shall
40 specify a date not more than twenty-four months from such determination
41 for reconsideration, and the procedures to be followed upon reconsider-
42 ation shall be the same, provided, however in the case of a defendant
43 sentenced for an eligible violent felony offense, the board shall speci-
44 fy a date not more than sixty months from such determination for recon-
45 sideration and the procedures to be followed for reconsideration shall
46 be the same. For the purposes of this section an "eligible violent felo-
47 ny offense" shall mean a conviction for the class A-I felonies of:
48 murder in the first degree as defined in section 125.27 of the penal law
49 where a sentence other than death or life imprisonment without parole is
50 imposed; aggravated murder as defined in section 125.26 of the penal law
51 where a sentence other than death or life imprisonment without parole is
52 imposed; murder in the second degree as defined in section 125.25 of the
53 penal law where a sentence other than life imprisonment without parole
54 is imposed; the class A-II felonies of predatory sexual assault as
55 defined in section 130.95 of the penal law and predatory sexual assault
56 against a child as defined in section 130.96 of the penal law; and a

1 conviction for a class B violent felony offense as defined in section
2 70.02 of the penal law for those offenders sentenced to an indeterminate
3 sentence. If the incarcerated individual is released, he or she shall
4 be given a copy of the conditions of parole. Such conditions shall where
5 appropriate, include a requirement that the parolee comply with any
6 restitution order and mandatory surcharge previously imposed by a court
7 of competent jurisdiction that applies to the parolee. The conditions
8 shall indicate which restitution collection agency established under
9 subdivision eight of section 420.10 of the criminal procedure law, shall
10 be responsible for collection of restitution and mandatory surcharge as
11 provided for in section 60.35 of the penal law and section eighteen
12 hundred nine of the vehicle and traffic law. If the incarcerated indi-
13 vidual is released, he or she shall also be notified in writing that his
14 or her voting rights will be restored upon release.

15 § 3. This act shall take effect immediately and shall apply to all
16 future and currently incarcerated individuals sentenced for an eligible
17 class A felony and to all currently incarcerated individuals sentenced
18 for an eligible class B violent felony offense who are serving indeter-
19 minate sentences; provided that the amendments to paragraph (a) of
20 subdivision two of section 259-i of the executive law made by section
21 one of this act shall be subject to the expiration and reversion of such
22 paragraph pursuant to subdivision d of section 74 of chapter 3 of the
23 laws of 1995, as amended, when upon such date the provisions of section
24 two of this act shall take effect.