

STATE OF NEW YORK

2093

2023-2024 Regular Sessions

IN SENATE

January 18, 2023

Introduced by Sens. PALUMBO, HELMING, MATTERA, OBERACKER, TEDISCO, WEIK
-- 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 the time in which
reconsideration for parole shall be determined in the case of
convictions for murder in the first degree, aggravated murder, and
murder in the second degree, where a sentence other than death or life
imprisonment without parole is imposed

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

1 Section 1. This act shall be known and may be cited as "Lorraine's
2 Law".

3 § 2. Legislative findings and intent. This legislation is named in the
4 memory of Lorraine Miranda who was a native of Shirley, Long Island.
5 Despite being afflicted with Cerebral Palsy, she graduated from high
6 school, moved to Staten Island, New York and worked tirelessly to help
7 disabled children at the Port Richmond branch of United Cerebral Palsy
8 of New York while attending college at night. She was engaged and was
9 planning her wedding. In a tragic turn, Lorraine Miranda was brutally
10 murdered by her fiancée on December 5, 1988. She was only 24 years old.
11 Her killer was sentenced to 15 years to life in prison. He became eligi-
12 ble for parole in 2003 and has since been denied seven times.

13 Currently when parole is denied, the Parole Board has the discretion
14 to set the date for reconsideration for parole for any date within two
15 years of the denial of parole. In many cases, especially those involving
16 heinous acts of murder in the first degree, aggravated murder, and
17 murder in the second degree, parole will be denied numerous times.
18 However, each time an inmate is considered for parole, the victim's
19 family must relive the horror of the crime for the sake of impressing
20 upon the Parole Board the inappropriateness of early release. Lorraine
21 Miranda's mother, who has been diagnosed with post-traumatic stress

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

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1 syndrome, has stated that the agony of reliving her daughter's death
2 every 24 months is unbearable and is a major trigger of panic symptoms
3 which interfere with her quality of life.

4 It is not the intent of "Lorraine's Law" to in any way infringe upon
5 the Parole Board's ability to allow for the current 24-month reconsider-
6 ation period. It merely provides another option for the board to consid-
7 er if it is apparent that nothing could transpire in the next five years
8 that would cause them to render a different opinion regarding parole
9 release. Only in these cases would the board have the ability to set the
10 date for reconsideration anywhere between 24-months and 60-months which
11 would afford grieving families a greater period of peace before having
12 to testify at the next parole hearing.

13 § 3. Subparagraph (i) of paragraph (a) of subdivision 2 of section
14 259-i of the executive law, as amended by section 14 of chapter 486 of
15 the laws of 2022, is amended to read as follows:

16 (i) Except as provided in subparagraph (ii) of this paragraph, at
17 least one month prior to the date on which an incarcerated individual
18 may be paroled pursuant to subdivision one of section 70.40 of the penal
19 law, a member or members as determined by the rules of the board shall
20 personally interview such incarcerated individual and determine whether
21 he or she should be paroled in accordance with the guidelines adopted
22 pursuant to subdivision four of section two hundred fifty-nine-c of this
23 article. If parole is not granted upon such review, the incarcerated
24 individual shall be informed in writing within two weeks of such appear-
25 ance of the factors and reasons for such denial of parole. Such reasons
26 shall be given in detail and not in conclusory terms. The board shall
27 specify a date not more than twenty-four months from such determination
28 for reconsideration, and the procedures to be followed upon reconsider-
29 ation shall be the same, however in the case of a defendant sentenced
30 for an eligible class A felony, the board shall specify a date not more
31 than sixty months from such determination for reconsideration and the
32 procedures to be followed for reconsideration shall be the same. For the
33 purposes of this section an "eligible class A felony" shall mean a
34 conviction for the class A-I felonies of: murder in the first degree as
35 defined in section 125.27 of the penal law where a sentence other than
36 death or life imprisonment without parole is imposed; aggravated murder
37 as defined in section 125.26 of the penal law where a sentence other
38 than death or life imprisonment without parole is imposed; and murder in
39 the second degree as defined in section 125.25 of the penal law where a
40 sentence other than life imprisonment without parole is imposed. If the
41 incarcerated individual is released, he or she shall be given a copy of
42 the conditions of parole. Such conditions shall where appropriate,
43 include a requirement that the parolee comply with any restitution
44 order, mandatory surcharge, sex offender registration fee and DNA data-
45 bank fee previously imposed by a court of competent jurisdiction that
46 applies to the parolee. The conditions shall indicate which restitution
47 collection agency established under subdivision eight of section 420.10
48 of the criminal procedure law, shall be responsible for collection of
49 restitution, mandatory surcharge, sex offender registration fees and DNA
50 databank fees as provided for in section 60.35 of the penal law and
51 section eighteen hundred nine of the vehicle and traffic law. If the
52 incarcerated individual is released, he or she shall also be notified in
53 writing that his or her voting rights will be restored upon release.

54 § 4. Paragraph (a) of subdivision 2 of section 259-i of the executive
55 law, as amended by section 15 of chapter 486 of the laws of 2022, is
56 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 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. 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, however in the case of a defendant sentenced for an eligible class A felony, the board shall specify a date not more than sixty months from such determination for reconsideration, and the procedures to be followed for reconsideration shall be the same. For the purposes of this section an "eligible class A felony" shall mean a conviction for the class A-I felonies of: murder in the first degree as defined in section 125.27 of the penal law where a sentence other than death or life imprisonment without parole is imposed; aggravated murder as defined in section 125.26 of the penal law where a sentence other than death or life imprisonment without parole is imposed; and murder in the second degree as defined in section 125.25 of the penal law where a sentence other than life imprisonment without parole is imposed. 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.

§ 5. This act shall take effect immediately and shall apply to all future and currently incarcerated individuals sentenced for an eligible class A felony; provided that the amendments to subparagraph (i) of paragraph (a) of subdivision 2 of section 259-i of the executive law made by section three 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 four of this act shall take effect.