

STATE OF NEW YORK

4309

2023-2024 Regular Sessions

IN SENATE

February 7, 2023

Introduced by Sen. SEPULVEDA -- 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 modifying the factors to be considered when making a parole release decision

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

1 Section 1. Subparagraph (A) of paragraph (c) of subdivision 2 of
2 section 259-i of the executive law, as amended by chapter 322 of the
3 laws of 2021, is amended to read as follows:
4 (A) Discretionary release on parole shall not be granted merely as a
5 reward for good conduct or efficient performance of duties while
6 confined but after considering if there is a reasonable probability
7 that, if such incarcerated individual is released, he or she will live
8 and remain at liberty without violating the law, and that his or her
9 release is not incompatible with the welfare of society and will not so
10 deprecate the seriousness of his or her crime as to undermine respect
11 for law. In making the parole release decision, the procedures adopted
12 pursuant to subdivision four of section two hundred fifty-nine-c of this
13 article shall require that the following be considered: (i) the institu-
14 tional record including program goals and accomplishments, academic
15 achievements, vocational education, training or work assignments, thera-
16 py and interactions with staff and incarcerated individuals; (ii)
17 performance, if any, as a participant in a temporary release program;
18 (iii) release plans including community resources, employment, education
19 and training and support services available to the incarcerated individ-
20 ual; (iv) any deportation order issued by the federal government against
21 the incarcerated individual while in the custody of the department and
22 any recommendation regarding deportation made by the commissioner of the
23 department pursuant to section one hundred forty-seven of the correction
24 law; (v) any current or prior statement made to the board by the crime

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

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1 victim or the victim's representative, where the crime victim is
2 deceased or is mentally or physically incapacitated; (vi) the length of
3 the determinate sentence to which the incarcerated individual would be
4 subject had he or she received a sentence pursuant to section 70.70 or
5 section 70.71 of the penal law for a felony defined in article two
6 hundred twenty [~~or article two hundred twenty one~~] of the penal law;
7 (vii) the [~~seriousness of the offense with due consideration to the type~~
8 ~~of sentence, length of sentence and~~] recommendations of the sentencing
9 court, the district attorney, the attorney for the incarcerated individ-
10 ual, the pre-sentence probation report as well as consideration of any
11 mitigating and aggravating factors[~~, and activities following arrest~~
12 ~~prior to confinement~~]; and (viii) prior criminal record, including the
13 nature and pattern of offenses, adjustment to any previous probation or
14 parole supervision and institutional confinement. The board shall
15 provide toll free telephone access for crime victims. In the case of an
16 oral statement made in accordance with subdivision one of section 440.50
17 of the criminal procedure law, the parole board member shall present a
18 written report of the statement to the parole board. A crime victim's
19 representative shall mean the crime victim's closest surviving relative,
20 the committee or guardian of such person, or the legal representative of
21 any such person. Such statement submitted by the victim or victim's
22 representative may include information concerning threatening or intim-
23 idating conduct toward the victim, the victim's representative, or the
24 victim's family, made by the person sentenced and occurring after the
25 sentencing. Such information may include, but need not be limited to,
26 the threatening or intimidating conduct of any other person who or which
27 is directed by the person sentenced. Any statement by a victim or the
28 victim's representative made to the board shall be maintained by the
29 department in the file provided to the board when interviewing the
30 incarcerated individual in consideration of release. A victim or
31 victim's representative who has submitted a written request to the
32 department for the transcript of such interview shall be provided such
33 transcript as soon as it becomes available.

34 § 2. This act shall take effect immediately.