STATE OF NEW YORK

4919

2023-2024 Regular Sessions

IN SENATE

February 17, 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 permitting a qualified incarcerated individual eligible for early release to receive a conditional release

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

Section 1. Subparagraph (i) of paragraph (d) of subdivision 2 of section 259-i of the executive law, as amended by chapter 322 of the laws of 2021, is amended to read as follows:

(i) Notwithstanding the provisions of paragraphs (a), (b) and (c) of this subdivision, after the incarcerated individual has served his or her minimum period of imprisonment imposed by the court **or is eligible for early release from imprisonment**, or at any time after the incarcerated individual's period of imprisonment has commenced for an incarcerated individual serving a determinate or indeterminate term of imprisonment, provided that the incarcerated individual has had a final order of deportation issued against him or her and provided further that the incarcerated individual is not convicted of either an A-I felony offense other than an A-I felony offense as defined in article two hundred twenty of the penal law or a violent felony offense as defined in section 70.02 of the penal law, if the incarcerated individual is subject to deportation by the United States Bureau of Immigration and Customs Enforcement, in addition to the criteria set forth in paragraph (c) of this subdivision, the board may consider, as a factor warranting earlier release, the fact that such incarcerated individual will be deported, and may grant parole from an indeterminate sentence or release for deportation from a determinate sentence to such incarcerated individual conditioned specifically on his or her prompt deportation. The board may make such conditional grant of early parole from an indeterminate

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

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sentence or release for deportation from a determinate sentence only where it has received from the United States Bureau of Immigration and Customs Enforcement assurance (A) that an order of deportation will be executed or that proceedings will promptly be commenced for the purpose of deportation upon release of the incarcerated individual from the custody of the department of correctional services, and (B) that the incarcerated individual, if granted parole or release for deportation pursuant to this paragraph, will not be released from the custody of the United States Bureau of Immigration and Customs Enforcement, unless such release be as a result of deportation without providing the board a reasonable opportunity to arrange for execution of its warrant for the retaking of such person.

§ 2. This act shall take effect immediately.