

STATE OF NEW YORK

7788

2023-2024 Regular Sessions

IN SENATE

December 6, 2023

Introduced by Sen. WEIK -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the executive law and the criminal procedure law, in relation to providing notice to the crime victim or victim's representative that a parolee or releasee is being discharged or released

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

1 Section 1. Subdivisions 1, 2 and 3 of section 259-j of the executive
2 law, as amended by section 38-g of subpart A of part C of chapter 62 of
3 the laws of 2011, are amended to read as follows:

4 1. Except where a determinate sentence was imposed for a felony other
5 than a felony defined in article two hundred twenty or article two
6 hundred twenty-one of the penal law, if the board of parole is satisfied
7 that an absolute discharge from presumptive release, parole, conditional
8 release or release to a period of post-release supervision is in the
9 best interests of society, the board may grant such a discharge prior to
10 the expiration of the full term or maximum term to any person who has
11 been on unrevoked community supervision for at least three consecutive
12 years. A discharge granted under this section shall constitute a termination
13 of the sentence with respect to which it was granted. No such
14 discharge shall be granted unless: (a) the board is satisfied that the
15 parolee or releasee, otherwise financially able to comply with an order
16 of restitution and the payment of any mandatory surcharge, sex offender
17 registration fee or DNA databank fee previously imposed by a court of
18 competent jurisdiction, has made a good faith effort to comply
19 therewith; (b) the crime victim or victim's representative is provided
20 notice that the discharged parolee or releasee is having his or her
21 sentence discharged; and (c) the board considers any current or former
22 statements made to it by a crime victim or victim's representative
23 pursuant to paragraph (c) of subdivision two of section two hundred
24 fifty-nine-i of this article.

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

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2. The chairman of the board of parole shall promulgate rules and regulations governing: (a) the issuance of discharges from community supervision pursuant to this section to assure that such discharges are consistent with public safety; and (b) the notice provided to the crime victim or victim's representative that the parolee or releasee is being discharged from community supervision.

3. Notwithstanding any other provision of this section to the contrary, where a term of post-release supervision in excess of five years has been imposed on a person convicted of a crime defined in article one hundred thirty of the penal law, including a sexually motivated felony, the board of parole may grant a discharge from post-release supervision prior to the expiration of the maximum term of post-release supervision. Such a discharge may be granted only after the person has served at least five years of post-release supervision, and only to a person who has been on unrevoked post-release supervision for at least three consecutive years. No such discharge shall be granted unless the board of parole or the department acting pursuant to its responsibility under subdivision one of section two hundred one of the correction law consults with any licensed psychologist, qualified psychiatrist, or other mental health professional who is providing care or treatment to the supervisee; and the board: (a) determines that a discharge from post-release supervision is in the best interests of society; ~~[and]~~ (b) is satisfied that the supervisee, otherwise financially able to comply with an order of restitution and the payment of any mandatory surcharge, sex offender registration fee, or DNA ~~[data-bank]~~ databank fee previously imposed by a court of competent jurisdiction, has made a good faith effort to comply therewith; (c) notifies the crime victim or victim's representative that the individual is being released from post-release supervision; and (d) considers any current or prior statements made to it by a crime victim or victim's representatives pursuant to paragraph (c) of subdivision two of section two hundred fifty-nine-i of this article. Before making a determination to discharge a person from a period of post-release supervision, the board of parole may request that the commissioner of the office of mental health arrange a psychiatric evaluation of the supervisee. A discharge granted under this section shall constitute a termination of the sentence with respect to which it was granted.

§ 2. Section 410.90 of the criminal procedure law is amended by adding a new subdivision 4 to read as follows:

4. In no event may a court terminate a period of probation or a life-time probation pursuant to this section unless:

(a) notice is provided to the crime victim or the victim's representative that the defendant's probation is being terminated; and

(b) the court considers any current or former statements made by the crime victim or victim's representative pursuant to paragraph (c) of subdivision two of section two hundred fifty-nine-i of the executive law.

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