

STATE OF NEW YORK

3652

2025-2026 Regular Sessions

IN ASSEMBLY

January 29, 2025

Introduced by M. of A. DILAN -- read once and referred to the Committee on Correction

AN ACT to amend the executive law, in relation to modifying the procedure for interviews of parole applicants and to the disclosure of parole applicant records

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

1 Section 1. Paragraph (a) of subdivision 2 of section 259-i of the
2 executive law, as amended by chapter 322 of the laws of 2021, subpara-
3 graph (i) as amended by section 14 of chapter 486 of the laws of 2022,
4 is amended to read as follows:

5 (a) (i) Except as provided in subparagraph (ii) of this paragraph, at
6 least [~~one month~~] three months prior to the date on which an [~~incaer-~~
7 ~~ated individual~~] a parole applicant may be paroled pursuant to subdivi-
8 sion one of section 70.40 of the penal law, a member or members as
9 determined by the rules of the board shall personally interview such
10 [~~incaerated individual~~] parole applicant and determine whether [~~he or~~
11 ~~she~~] such parole applicant should be paroled in accordance with the
12 [~~guidelines~~] procedures adopted pursuant to subdivision four of section
13 two hundred fifty-nine-c of this article. The interview shall take
14 place with all parties present in the same room. The interview shall be
15 recorded audio-visually and this recording shall be made available to
16 the board and the parole applicant or the parole applicant's represen-
17 tative only. At least one month prior to the parole hearing parole
18 applicants shall be provided the opportunity to review all documents
19 contained in their parole file or that otherwise will be made available
20 for the board's discretionary release consideration. No documents shall
21 be considered confidential except as provided in subparagraph (i) of
22 paragraph (c) of this subdivision. Records concerning or relating to
23 the mental health examination or treatment of the parole applicant shall
24 be disclosed unless, in accordance with the standards and procedures set

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

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1 forth in section 33.16 of the mental hygiene law, it is determined by a
2 mental health practitioner that such disclosure can reasonably be
3 expected to cause substantial and identifiable harm to the parole appli-
4 cant or others and that this harm would outweigh the parole applicant's
5 right of access to the record. At least thirty days before the parole
6 hearing, if requested by the victim, as the term victim is defined in
7 subdivision two of section 380.50 of the criminal procedure law, the
8 following information shall be provided to the victim, or the victim's
9 representative: incarcerated individual status reports; incarcerated
10 individual's psychiatric evaluation, if there is one available and only
11 upon consent of the parole applicant; and a copy of the parole appli-
12 cant's "parole release plan" in the event that the applicant submits
13 one. If parole is not granted upon such review, the [~~incarcerated indi-~~
14 vidual] board will be required to state in detail and not in conclusory
15 terms the factors and reasons for the denial and the specific require-
16 ments for actions to be taken, programs or accomplishments to be
17 completed, or changes in performance or conduct to be made, or correc-
18 tive action or actions to be taken, in order to qualify for parole
19 release. The board shall specify a date not more than twenty-four months
20 from such determination for reconsideration. The parole applicant shall
21 be informed in writing within two weeks of such appearance of the
22 factors and reasons for such denial of parole[~~, such reasons shall be~~
23 given in detail and not in conclusory terms. The board shall specify a
24 date not more than twenty-four months from such determination for recon-
25 sideration, and the procedures to be followed upon reconsideration shall
26 be the same] and the specific requirements and shall be provided with a
27 copy of the scored risk and needs assessment instrument considered by
28 the board. Within ninety days of the hearing decision, the department
29 shall provide to the parole applicant access to the program or programs,
30 activities and/or facilities needed in order to provide the opportunity
31 to fulfill the requirements set forth by the board. The parole applicant
32 shall be scheduled for a reappearance before the board upon completion
33 of the specific requirements as previously set forth by the board if
34 such completion occurs sooner than the date specified by the board. If
35 the requirements previously set forth by the board have been successful-
36 ly completed and the parole applicant's institutional record has been
37 satisfactory during the time between the previous and current parole
38 hearing, release shall be granted. If the [~~incarcerated individual]~~
39 parole applicant is released, [~~he or she]~~ such parole applicant shall be
40 given a copy of the conditions of parole. Such conditions shall where
41 appropriate, include a requirement that the parolee comply with any
42 restitution order, mandatory surcharge, sex offender registration fee
43 and DNA databank fee previously imposed by a court of competent juris-
44 isdiction that applies to the parolee. The conditions shall indicate which
45 restitution collection agency established under subdivision eight of
46 section 420.10 of the criminal procedure law, shall be responsible for
47 collection of restitution, mandatory surcharge, sex offender registra-
48 tion fees and DNA databank fees as provided for in section 60.35 of the
49 penal law and section eighteen hundred nine of the vehicle and traffic
50 law. If the [~~incarcerated individual]~~ parole applicant is released, [~~he~~
51 or she] such parole applicant shall also be notified in writing that
52 [~~his or her]~~ their voting rights will be restored upon release.

53 (ii) Any [~~incarcerated individual]~~ parole applicant who is scheduled
54 for presumptive release pursuant to section eight hundred six of the
55 correction law shall not appear before the board as provided in subpara-
56 graph (i) of this paragraph unless such [~~incarcerated individual's]~~

1 parole applicant's scheduled presumptive release is forfeited, canceled,
2 or rescinded subsequently as provided in such law. In such event, the
3 ~~[incarcerated individual]~~ parole applicant shall appear before the board
4 for release consideration as provided in subparagraph (i) of this para-
5 graph as soon thereafter as is practicable.

6 § 2. Paragraph (a) of subdivision 2 of section 259-i of the executive
7 law, as amended by section 15 of chapter 486 of the laws of 2022, is
8 amended to read as follows:

9 (a) At least ~~[one month]~~ three months prior to the expiration of the
10 minimum period or periods of imprisonment fixed by the court or board, a
11 member or members as determined by the rules of the board shall
12 personally interview ~~[an incarcerated individual]~~ a parole applicant
13 serving an indeterminate sentence and determine whether ~~[he or she]~~ such
14 parole applicant should be paroled at the expiration of the minimum
15 period or periods in accordance with the procedures adopted pursuant to
16 subdivision four of section two hundred fifty-nine-c of this article.
17 The interview shall take place with all parties present in the same
18 room. The interview shall be recorded audio-visually and this recording
19 shall be made available to the board and the parole applicant or the
20 parole applicant's representative only. At least one month prior to the
21 parole hearing parole applicants shall be provided the opportunity to
22 review all documents contained in their parole file or that otherwise
23 will be made available for the board's discretionary release consider-
24 ation. No documents shall be considered confidential except as provided
25 in subparagraph (i) of paragraph (c) of this subdivision. Records
26 concerning or relating to the mental health examination or treatment of
27 the parole applicant shall be disclosed unless, in accordance with the
28 standards and procedures set forth in section 33.16 of the mental
29 hygiene law, it is determined by a mental health practitioner that such
30 disclosure can reasonably be expected to cause substantial and identifi-
31 able harm to the parole applicant or others and that this harm would
32 outweigh the parole applicant's right of access to the record. At least
33 thirty days before the parole hearing, if requested by the victim, as
34 the term victim is defined in subdivision two of section 380.50 of the
35 criminal procedure law, the following information shall be provided to
36 the victim, or the victim's representative: incarcerated individual
37 status reports; incarcerated individual's psychiatric evaluation, if
38 there is one available and only upon consent of the parole applicant;
39 and a copy of the parole applicant's "parole release plan" in the event
40 that the applicant submits one. If parole is not granted upon such
41 review, the ~~[incarcerated individual]~~ board will be required to state in
42 detail and not in conclusory terms the factors and reasons for the
43 denial and the specific requirements for actions to be taken, programs
44 or accomplishments to be completed, or changes in performance or conduct
45 to be made, or corrective action or actions to be taken, in order to
46 qualify for parole release. The board shall specify a date not more than
47 twenty-four months from such determination for reconsideration. The
48 parole applicant shall be informed in writing within two weeks of such
49 appearance of the factors and reasons for such denial of parole~~[, — Such~~
50 reasons shall be given in detail and not in conclusory terms. The board
51 shall specify a date not more than twenty-four months from such determi-
52 nation for reconsideration, and the procedures to be followed upon
53 reconsideration shall be the same] and the specific requirements and
54 shall be provided with a copy of the scored risk and needs assessment
55 instrument considered by the board. Within ninety days of the hearing
56 decision, the department shall provide to the parole applicant access to

1 the program or programs, activities and/or facilities needed in order to
2 provide the opportunity to fulfill the requirements set forth by the
3 board. The parole applicant shall be scheduled for a reappearance before
4 the board upon completion of the specific requirements as previously set
5 forth by the board if such completion occurs sooner than the date speci-
6 fied by the board. If the requirements previously set forth by the board
7 have been successfully completed and the parole applicant's institu-
8 tional record has been satisfactory during the time between the previous
9 and current parole hearing, release shall be granted. If the [~~incaarcer-~~
10 ~~ated individual~~] parole applicant is released, [~~he or she~~] such parole
11 applicant shall be given a copy of the conditions of parole. Such condi-
12 tions shall where appropriate, include a requirement that the parolee
13 comply with any restitution order and mandatory surcharge previously
14 imposed by a court of competent jurisdiction that applies to the paro-
15 lee. The conditions shall indicate which restitution collection agency
16 established under subdivision eight of section 420.10 of the criminal
17 procedure law, shall be responsible for collection of restitution and
18 mandatory surcharge as provided for in section 60.35 of the penal law
19 and section eighteen hundred nine of the vehicle and traffic law. If the
20 [~~incaarcerated individual~~] parole applicant is released, [~~he or she~~] such
21 parole applicant shall also be notified in writing that [~~his or her~~]
22 their voting rights will be restored upon release.

23 § 3. Paragraph (c) of subdivision 2 of section 259-i of the executive
24 law, as amended by chapter 322 of the laws of 2021, is amended to read
25 as follows:

26 (c) [~~(A)~~] (i) Discretionary release on parole shall [~~not~~] be granted
27 [~~merely as a reward~~] for good conduct [~~or~~] and efficient performance of
28 duties while confined [~~but after considering if there is a reasonable~~
29 ~~probability~~], and for preparedness for reentry and reintegration into
30 society thereby providing a reasonable basis to conclude that, if such
31 incarcerated individual is released, [~~he or she~~] such incarcerated indi-
32 vidual will live and remain at liberty without violating the law, and
33 therefore that [~~his or her~~] such incarcerated individual's release is
34 not incompatible with the welfare of society [~~and will not so deprecate~~
35 ~~the seriousness of his or her crime as to undermine respect for law~~]. In
36 making the parole release decision, the procedures adopted pursuant to
37 subdivision four of section two hundred fifty-nine-c of this article
38 shall require that the [~~following be considered~~] decision be based upon
39 the following considerations: [~~(i) the institutional record including~~
40 ~~program goals and accomplishments, academic achievements, vocational~~
41 ~~education, training or work assignments, therapy and interactions with~~
42 ~~staff and incarcerated individuals~~] (A) preparedness for reentry and
43 reintegration as evidenced by the applicant's institutional record
44 pertaining to program goals and accomplishments as stated in the facili-
45 ty performance reports, academic achievements, vocational education,
46 training or work assignments, therapy and interactions with staff and
47 other sentenced persons, and other indications of pro-social activity,
48 change and transformation; [~~(ii)~~] (B) performance, if any, as a partic-
49 ipant in a temporary release program; [~~(iii)~~] (C) release plans includ-
50 ing community resources, employment, education and training and support
51 services available to the [~~incaarcerated individual~~] parole applicant;
52 [~~(iv)~~] (D) any deportation order issued by the federal government
53 against the [~~incaarcerated individual~~] parole applicant while in the
54 custody of the department and any recommendation regarding deportation
55 made by the commissioner of the department pursuant to section one
56 hundred forty-seven of the correction law; [~~(v)~~] (E) any current or

1 prior statement, whether supportive or critical, made to the board by
2 the crime victim or the victim's representative, where the crime victim
3 is deceased or is mentally or physically incapacitated, to assist the
4 board in determining whether at this time there is reasonable cause to
5 believe that the release of the parole applicant would create a present
6 danger to the victim or the victim's representative, or the extent of
7 the parole applicant's preparedness for reentry and reintegration as set
8 forth in clause (A) of this subparagraph; [~~(vi)~~] (F) the length of the
9 determinate sentence to which the incarcerated individual would be
10 subject had [~~he or she~~] such incarcerated individual received a sentence
11 pursuant to section 70.70 or section 70.71 of the penal law for a felony
12 defined in article two hundred twenty [~~or article two hundred twenty~~
13 ~~one~~] of the penal law; [~~(vii) the seriousness of the offense with due~~
14 ~~consideration to the type of sentence, length of sentence and recommen-~~
15 ~~dations of the sentencing court, the district attorney, the attorney for~~
16 ~~the incarcerated individual, the pre-sentence probation report as well~~
17 ~~as consideration of any mitigating and aggravating factors, and activ-~~
18 ~~ities following arrest prior to confinement, and (viii) prior criminal~~
19 ~~record, including the nature and pattern of offenses, adjustment to any~~
20 ~~previous probation or parole supervision and institutional confinement]~~
21 (G) participation and performance, if any, in a
22 reconciliation/restorative justice-type conference with the victim or
23 victim's representatives; (H) the progress made towards the completion
24 of the specific requirements previously set forth by the board for the
25 parole applicant, in the case of a reappearance; and (I) the progress
26 made towards achieving the programming and treatment needs developed in
27 the transitional accountability plan. The board shall provide toll free
28 telephone access for crime victims. In the case of an oral statement
29 made in accordance with subdivision one of section 440.50 of the crimi-
30 nal procedure law, the parole board member shall present a written
31 report of the statement to the parole board. A crime victim's represen-
32 tative shall mean [~~the crime victim's closest surviving relative~~] a
33 member of the family or domestic partner of such crime victim, the
34 committee or guardian of such person, or the legal representative of any
35 such person. Such statement submitted by the victim or victim's repre-
36 sentative may include information concerning threatening or intimidating
37 conduct toward the victim, the victim's representative, or the victim's
38 family, made by the person sentenced and occurring after the sentencing.
39 Such information may include, but need not be limited to, the threaten-
40 ing or intimidating conduct of any other person who or which is directed
41 by the person sentenced. Any statement by a victim or the victim's
42 representative made to the board shall be maintained by the department
43 in the file provided to the board when interviewing the incarcerated
44 individual in consideration of release. A victim or victim's represen-
45 tative who has submitted a written request to the department for the
46 transcript of such interview shall be provided such transcript as soon
47 as it becomes available.

48 [~~(B)~~] (ii) Where a crime victim or victim's representative as defined
49 in subparagraph [~~(A)~~] (i) of this paragraph, or other person submits to
50 the parole board a written statement concerning the release of [~~an~~
51 incarcerated individual] a parole applicant, the parole board shall keep
52 that individual's name and address confidential. With regard to any
53 statement from a judge or district attorney, the address, if residen-
54 tial, shall be kept confidential by the board.

55 § 4. This act shall take effect on the one hundred eightieth day after
56 it shall have become a law; provided that the amendments to paragraph

1 (a) of subdivision 2 of section 259-i of the executive law made by
2 section one of this act shall be subject to the expiration and reversion
3 of such paragraph as provided by section 74 of chapter 3 of the laws of
4 1995, as amended, when upon such date the provisions of section two of
5 this act shall take effect.