

STATE OF NEW YORK

5094

2025-2026 Regular Sessions

IN SENATE

February 18, 2025

Introduced by Sens. GRIFFO, HELMING, MATTERA, OBERACKER, STEC, TEDISCO
-- read twice and ordered printed, and when printed to be committed to
the Committee on Codes

AN ACT to amend the penal law, in relation to denial of parole to certain persons who have been convicted of a violent felony offense when the state board of parole finds, by convincing evidence, that the release of such person would pose an imminent threat to society; and to amend the correction law, in relation to making the earning of good behavior allowances for violent felony offenders contingent upon their not being an imminent threat to society upon release

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

1 Section 1. Paragraph (b) of subdivision 1 of section 70.40 of the
2 penal law, as amended by section 127-d-1 of subpart B of part C of chap-
3 ter 62 of the laws of 2011, is amended to read as follows:
4 (b) A person who is serving one or more than one indeterminate or
5 determinate sentence of imprisonment shall, if [~~he or she~~] they so
6 [~~requests~~] request, be conditionally released from the institution in
7 which [~~he or she is~~] they are confined when the total good behavior time
8 allowed to [~~him or her~~] them, pursuant to the provisions of the
9 correction law, is equal to the unserved portion of [~~his or her~~] their
10 term, maximum term or aggregate maximum term; provided, however, that
11 (i) in no event shall a person serving one or more indeterminate
12 sentence of imprisonment and one or more determinate sentence of impri-
13 sonment which run concurrently be conditionally released until serving
14 at least six-sevenths of the determinate term of imprisonment which has
15 the longest unexpired time to run; and (ii) in no event shall a person
16 be conditionally released prior to the date on which such person is
17 first eligible for discretionary parole release; and (iii) in the event
18 that the state board of parole finds, in writing and by clear and
19 convincing evidence, that the release of a person serving any sentence

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

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1 of imprisonment for the conviction of a violent felony offense, as
2 defined in subdivision one of section 70.02 of this article, would pose
3 an imminent threat to society, such person shall not be conditionally
4 released or paroled and shall remain imprisoned for their term, maximum
5 term or aggregate maximum term, whichever shall be greatest. The condi-
6 tions of release, including those governing post-release supervision,
7 shall be such as may be imposed by the state board of parole in accord-
8 ance with the provisions of the executive law.

9 Every person so released shall be under the supervision of the state
10 department of corrections and community supervision for a period equal
11 to the unserved portion of the term, maximum term, aggregate maximum
12 term, or period of post-release supervision.

13 § 2. Paragraph (b) of subdivision 1 of section 70.40 of the penal law,
14 as amended by section 127-e of subpart B of part C of chapter 62 of the
15 laws of 2011, is amended to read as follows:

16 (b) A person who is serving one or more than one indeterminate
17 sentence of imprisonment shall, if [~~he or she~~] they so [~~requests~~]
18 request, be conditionally released from the institution in which [~~he or~~
19 ~~she is~~] they are confined when the total good behavior time allowed to
20 [~~him or her~~] them, pursuant to the provisions of the correction law, is
21 equal to the unserved portion of [~~his or her~~] their maximum or aggregate
22 maximum term; provided, however, that in the event that the state board
23 of parole finds, in writing and by clear and convincing evidence, that
24 the release of a person serving any sentence of imprisonment for the
25 conviction of a violent felony offense, as defined in subdivision one of
26 section 70.02 of this article, would pose an imminent threat to society,
27 such person shall not be conditionally released or paroled and shall
28 remain imprisoned for their maximum term or aggregate maximum term,
29 whichever shall be greater. The conditions of release, including those
30 governing post-release supervision, shall be such as may be imposed by
31 the state board of parole in accordance with the provisions of the exec-
32 utive law.

33 Every person so released shall be under the supervision of the depart-
34 ment of corrections and community supervision for a period equal to the
35 unserved portion of the maximum, aggregate maximum term, or period of
36 post-release supervision.

37 § 3. Paragraph (a) of subdivision 1 of section 803 of the correction
38 law, as amended by section 37 of subpart B of part C of chapter 62 of
39 the laws of 2011, is amended to read as follows:

40 (a) Every person confined in an institution of the department or a
41 facility in the department of mental hygiene serving an indeterminate or
42 determinate sentence of imprisonment, except a person serving a sentence
43 with a maximum term of life imprisonment, may receive time allowance
44 against the term or maximum term of [~~his or her~~] their sentence imposed
45 by the court. Such allowances may be granted for good behavior and effi-
46 cient and willing performance of duties assigned or progress and
47 achievement in an assigned treatment program, and may be withheld,
48 forfeited or canceled in whole or in part for bad behavior, violation of
49 institutional rules or failure to perform properly in the duties or
50 program assigned. Provided, however, that any time allowance earned
51 pursuant to this section by a person serving a sentence for conviction
52 of a violent felony offense defined in subdivision one of section 70.02
53 of the penal law shall be withheld by the state board of parole upon a
54 finding, in writing and by clear and convincing evidence, that such
55 person would pose an imminent threat to society if released from incar-
56 ceration.

1 § 4. Paragraph (a) of subdivision 1 of section 803 of the correction
2 law, as amended by chapter 126 of the laws of 1987 and as designated by
3 chapter 738 of the laws of 2004, is amended to read as follows:

4 (a) Every person confined in an institution of the department or a
5 facility in the department of mental hygiene serving an indeterminate
6 sentence of imprisonment, except a person serving a sentence with a
7 maximum term of life imprisonment, may receive time allowance against
8 the maximum term or period of ~~his~~ their sentence not to exceed in the
9 aggregate one-third of the term or period imposed by the court. Such
10 allowances may be granted for good behavior and efficient and willing
11 performance of duties assigned or progress and achievement in an
12 assigned treatment program, and may be withheld, forfeited or canceled
13 in whole or in part for bad behavior, violation of institutional rules
14 or failure to perform properly in the duties or program assigned.
15 Provided, however, that any time allowance earned pursuant to this
16 section by a person serving a sentence for conviction of a violent felo-
17 ny offense defined in subdivision one of section 70.02 of the penal law
18 shall be withheld by the state board of parole upon a finding, in writ-
19 ing and by clear and convincing evidence, that such person would pose an
20 imminent threat to society if released from incarceration.

21 § 5. This act shall take effect immediately; provided that the amend-
22 ments to paragraph (b) of subdivision 1 of section 70.40 of the penal
23 law made by section one of this act shall be subject to the expiration
24 and reversion of such paragraph pursuant to subdivision d of section 74
25 of chapter 3 of the laws of 1995, as amended, when upon such date the
26 provisions of section two of this act shall take effect; and provided,
27 further that the amendments to section 803 of the correction law, made
28 by section three of this act, shall be subject to the expiration and
29 reversion of such section pursuant to subdivision d of section 74 of
30 chapter 3 of the laws of 1995, as amended, when upon such date the
31 provisions of section four of this act shall take effect.