

# STATE OF NEW YORK

1861

2025-2026 Regular Sessions

## IN SENATE

January 14, 2025

Introduced by Sen. MYRIE -- 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 the use of risk and needs principles in parole decisions

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

1 Section 1. Subdivision 4 of section 259-c of the executive law, as  
2 amended by chapter 322 of the laws of 2021, is amended to read as  
3 follows:  
4 4. establish written procedures for its use in making parole decisions  
5 as required by law. Such written procedures shall incorporate risk and  
6 needs principles to measure the rehabilitation of persons appearing  
7 before the board, the likelihood of success of such persons upon  
8 release, and [~~assist~~] shall be used by members of the state board of  
9 parole in determining which incarcerated individuals may be released to  
10 parole supervision. Such principles shall provide the basis upon which  
11 the board shall determine if there is a reasonable probability that, if  
12 such incarcerated individual is released, such principle will live and  
13 remain at liberty without violating the law. Procedures which incorpo-  
14 rate risk and needs principles shall include, but shall not be limited  
15 to, a risk and needs assessment prepared pursuant to section one hundred  
16 twelve of the correction law or other validated risk and needs assess-  
17 ment instrument adopted by the board to determine whether or not an  
18 incarcerated individual is likely to re-offend upon release from incar-  
19 ceration. Such risk and needs assessment shall comprise presumptive  
20 evidence of the incarcerated individual's risk of re-offense. Should the  
21 board choose to override such risk and needs assessment in deciding  
22 whether or not an incarcerated individual will live and remain at liber-  
23 ty without violating the law, its decision must provide a detailed,  
24 individualized and nonconclusory statement as to its reasons for depart-

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

LBD05409-01-5

1 ing from the risk and needs assessment findings which shall be subject  
2 to judicial review. Such override decision shall not be based solely on  
3 information relating to the instant offense and/or the pre-sentencing  
4 report for such offense. Pursuant to subdivision eleven of this section,  
5 the board shall amend the rules and regulations for the conduct of its  
6 work to reflect the procedures established by this subdivision;

7 § 2. Section 259-e of the executive law, as amended by chapter 322 of  
8 the laws of 2021, is amended to read as follows:

9 § 259-e. Institutional parole services. 1. The department shall  
10 provide institutional parole services. Such services shall include prep-  
11 aration of risk and needs assessments, reports and other data required  
12 by the state board of parole in the exercise of its functions with  
13 respect to release on presumptive release, parole, conditional release  
14 or post-release supervision of incarcerated individuals. Additionally,  
15 the department shall determine which incarcerated individuals are in  
16 need of a deaf language interpreter or an English language interpreter,  
17 and shall inform the board of such need within a reasonable period of  
18 time prior to an incarcerated individual's scheduled appearance before  
19 the board. Employees of the department who collect data, interview  
20 incarcerated individuals and prepare reports for the state board of  
21 parole in institutions under the jurisdiction of the department shall  
22 work under the direct supervision of the deputy commissioner of the  
23 department in charge of program services. Data and reports submitted to  
24 the board shall address the statutory factors to be considered by the  
25 board pursuant to the relevant provisions of section two hundred fifty-  
26 nine-i of this article.

27 2. Two months prior to a parole board appearance, an incarcerated  
28 individual shall be permitted to review such individual's risk and needs  
29 assessment, reports and any other non-confidential documents to be given  
30 to the board with the department employee charged with preparing such  
31 assessment, reports and documents, and may ask for any such assessment,  
32 report or document prepared by the department to be corrected if it  
33 contains factual mistakes or other errors. The department shall imme-  
34 diately review the incarcerated individual's records and any evidence  
35 offered in support of the incarcerated individual's contention that  
36 there is a factual mistake or other error in such individual's records.  
37 Upon confirmation that such mistake or error has been made, the depart-  
38 ment shall immediately correct such mistake or error prior to submitting  
39 such assessment, record or document to the board. If the department  
40 decides not to correct an alleged mistake or error, the incarcerated  
41 individual shall be notified of such individual's right to submit  
42 evidence about any uncorrected mistake or uncorrected error to the board  
43 and may appeal the decision within fifteen days of the department's  
44 decision not to correct the mistake or error. The commissioner shall  
45 decide any such appeal within thirty days of receipt of the appeal, but  
46 no later than two weeks before an incarcerated individual's scheduled  
47 appearance before the parole board.

48 3. If a substantial mistake or error exists in the risk and needs  
49 assessment or in other reports or documents provided to the board for  
50 use at a parole interview and the incarcerated individual is subsequent-  
51 ly denied parole, the incarcerated individual shall be given a de novo  
52 parole interview within two months of the discovery of such mistake or  
53 error. A substantial mistake or error for the purposes of this subdivi-  
54 sion is any mistake or error that worsens the incarcerated individual's  
55 overall score on such individual's risk and needs assessment.

1 § 3. Subparagraph (A) of paragraph (c) of subdivision 2 of section  
2 259-i of the executive law, as amended by chapter 322 of the laws of  
3 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~~] such  
8 individual will live and remain at liberty without violating the law,  
9 and that [~~his or her~~] such individual's release is not incompatible with  
10 the welfare of society and will not so deprecate the seriousness of [~~his~~  
11 ~~or her~~] such individual's crime as to undermine respect for law. In  
12 making the parole release decision, the procedures, rules and regu-  
13 lations incorporating risk and needs principles adopted pursuant to  
14 subdivision four of section two hundred fifty-nine-c of this article  
15 shall require that the following be considered if not already taken into  
16 account by the risk and needs assessment: (i) the institutional record  
17 including program goals and accomplishments, academic achievements,  
18 vocational education, training or work assignments, therapy and inter-  
19 actions with staff and incarcerated individuals; (ii) performance, if  
20 any, as a participant in a temporary release program; (iii) release  
21 plans including community resources, employment, education and training  
22 and support services available to the incarcerated individual; (iv) any  
23 deportation order issued by the federal government against the incarcer-  
24 ated individual while in the custody of the department and any recommen-  
25 dation regarding deportation made by the commissioner of the department  
26 pursuant to section one hundred forty-seven of the correction law; (v)  
27 any current or prior statement made to the board by the crime victim or  
28 the victim's representative, where the crime victim is deceased or is  
29 mentally or physically incapacitated; (vi) the length of the determinate  
30 sentence to which the incarcerated individual would be subject had [~~he~~  
31 ~~or she~~] such individual received a sentence pursuant to section 70.70 or  
32 section 70.71 of the penal law for a felony defined in article two  
33 hundred twenty or article two hundred twenty-one of the penal law; (vii)  
34 the seriousness of the offense with due consideration to the type of  
35 sentence, length of sentence and recommendations of the sentencing  
36 court, the district attorney, the attorney for the incarcerated individ-  
37 ual, the pre-sentence probation report as well as consideration of any  
38 mitigating and aggravating factors, and activities following arrest  
39 prior to confinement; and (viii) prior criminal record, including the  
40 nature and pattern of offenses, adjustment to any previous probation or  
41 parole supervision and institutional confinement. The board shall  
42 provide toll free telephone access for crime victims. In the case of an  
43 oral statement made in accordance with subdivision one of section 440.50  
44 of the criminal procedure law, the parole board member shall present a  
45 written report of the statement to the parole board. A crime victim's  
46 representative shall mean the crime victim's closest surviving relative,  
47 the committee or guardian of such person, or the legal representative of  
48 any such person. Such statement submitted by the victim or victim's  
49 representative may include information concerning threatening or intim-  
50 idating conduct toward the victim, the victim's representative, or the  
51 victim's family, made by the person sentenced and occurring after the  
52 sentencing. Such information may include, but need not be limited to,  
53 the threatening or intimidating conduct of any other person who or which  
54 is directed by the person sentenced. Any statement by a victim or the  
55 victim's representative made to the board shall be maintained by the  
56 department in the file provided to the board when interviewing the

1 incarcerated individual in consideration of release. A victim or  
2 victim's representative who has submitted a written request to the  
3 department for the transcript of such interview shall be provided such  
4 transcript as soon as it becomes available.  
5 § 4. This act shall take effect immediately.