



2018 REPORT OF THE NEW YORK STATE SENATE

STANDING COMMITTEE ON CRIME VICTIMS, CRIME AND CORRECTION



SENATOR
Patrick M. Gallivan
Chairman



SENATOR
Luis R. Sepúlveda
Ranking Member

**REPORT OF THE NEW YORK STATE SENATE
STANDING COMMITTEE ON
CRIME VICTIMS, CRIME AND CORRECTION**

2018 ANNUAL REPORT

SENATOR PATRICK M. GALLIVAN, CHAIRMAN

SENATOR LUIS R. SEPÚLVEDA, RANKING MINORITY MEMBER

Committee Members

SENATOR PAMELA HEMING (VICE CHAIR)

SENATOR FRED AKSHAR

SENATOR JAMAAL T. BAILEY

SENATOR JOSEPH A. GRIFFO

SENATOR JESSE HAMILTON

SENATOR BRAD HOYLMAN

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SENATOR VELMANETTE MONTGOMERY

SENATOR PATTY RITCHIE

SENATOR GUSTAVO RIVERA

SENATOR JAMES TEDISCO

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Niko Ladopoulos, Committee Director

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Natasha Greenan, Legislative Liaison

Room 512 LOB

**New York State Capitol
Albany, New York 12247**

Dear Friends and Colleagues:

On behalf of the Crime Victims, Crime and Correction Committee, I am pleased to submit this 2018 report on the activities of the Committee.

The Standing Committee on Crime Victims, Crime and Correction has a legislative oversight of proposals seeking to amend the Correction, Penal, and Executive Laws. In 2018, 76 bills were reported out of the committee, 27 of which were reported to secondary reference and did not advance further. Of those reported to the calendar, 39 passed the Senate only, and 10 passed both the Senate and Assembly. Of those 10 bills, 7 were signed into law by the Governor.

In addition to the committee's work examining and acting on legislation, the members of the committee also had the opportunity to hear from the Chairperson of the New York State Board of Parole, Tina M. Stanford. The chairperson's address to the committee was extremely informative. Other executive branch members such as: Anthony J. Annucci, Commissioner of the Department of Corrections and Community Supervision (DOCCS); Elizabeth Cronin, Chair of the Crime Victims Board; George P. Beach, Superintendent of the New York State Police; and the Commissioner of the Division of Criminal Justice Services (DCJS) were also invited to speak to the Committee. However, they were unable to attend.

The committee also co-sponsored a set of hearings, with the Standing Committee on Elections, in October of 2018 to examine the State's current parole standards of release and the Governor's Executive Order granting conditional pardons to parolees so that they may register to vote. A wide range of testimony was presented to members of the Committee, which allowed the Committee to formulate recommendations on the subjects. We extend our thanks to all those who participated.

It has been my pleasure to serve as the Chairperson of this important committee over the past six years, since 2013. We have advanced numerous pieces of legislation during that time aimed at protecting the safety of New Yorkers. Thank you to all who worked diligently and with veracity throughout the years. I would like to extend a personal thank you to the members of the committee for their hard work and well thought out opinions, and to the staff for their impartial advice.

Sincerely,

A handwritten signature in blue ink that reads "Patrick M. Gallivan". The signature is written in a cursive style and is followed by a horizontal line.

Patrick M. Gallivan, Chair
Crime Victims, Crime and Correction

COMMITTEE ACTIVITIES AND ACHIEVEMENTS

240th NEW YORK STATE SENATE SESSION 2018 CRIME VICTIMS, CRIME AND CORRECTION LEGISLATION

LAWS ENACTED IN 2018

S6322 (HOYLMAN), Chapter 429 Directs the commissioner of DOCCS, in consultation with DOH, to undertake a study of the surveillance, prevention, treatment and prevalence of hepatitis C among the inmate population. Such study must address any procedural, regulatory, legislative, or budgetary obstacles. Requires report to be issued to Governor and Legislature within one year of the effective date.

S6850B (O'MARA), Chapter 334 This bill authorizes the Stueben county correctional facility to be used for the detention of persons who are under arrest.

S7404 (AKSHAR), Chapter 487 Authorizes the Tioga county correctional facility to also be used for detention of persons under arrest being held for arraignment in any court located in the county of Tioga.

S7992 (GALLIVAN), Chapter 494 The purpose of this measure is to ensure appropriate burial expenses are reimbursed and to increase the total emergency awards (EAs) available for burial expenses.

S7993 (GALLIVAN), Chapter 204 The purpose of this measure is to include reimbursement by the office of victim services ("OVS") for the shelter and crime scene victim expenses of certain victims of specified crimes who are considered eligible despite lack of physical injury.

S8048 (GALLIVAN), Chapter 247 Relates to remedying the inconsistent definitions for local correctional facility and municipal official and fixes other technical errors.

S8092 (HELMING), Chapter 385 Relates to authorizing the Wayne county correctional facility to also be used for the detention of persons under arrest being held for arraignment in any county located in the county of Wayne.

S8431 (AKSHAR), Chapter 505 Authorizes the Broome county correctional facility to also be used for the detention of persons under arrest being held for arraignment in any court located in the county of Broome.

S8647 (SEPULVEDA), Chapter 292 Requires the Board of Parole's statutorily required annual report to the Governor and Legislature to include statistical information regarding the demographics of persons granted release and considered for release.

S8751 (SEPULVEDA), Chapter 285 Permits the Office of Victim Services to utilize a report from the family court, Department of Social Services CPS unity or a medical facility that provides a forensic physical examination for victims of rape or sexual assault when rendering a decision for a monetary award of victims of a family offense. For these family offense cases, the Office would be able to make an award without demonstrating that (1) a crime was committed; and (2) the crime resulted in physical injury or exacerbation of existing injury.

S8821 (PERSAUD), Chapter 392 Would provide feminine hygiene products at no cost to individuals house in local and state correctional facilities.

LEGISLATION PASSED BY THE SENATE

S248 (ORTT) Prohibits any sex offender from residing within a quarter mile of any school, playground, park or building in which child care is provided.

S249 (ORTT) Requires the employment address of certain sex offenders to be reported to the division of criminal justice services.

S296 (ROBACH) Requires all level three sex offenders convicted of any sexually violent crime against a child to wear an electronic monitoring device for life.

S399 (ORTT) Creates a definition of residence under the sex offender registry act.

S785 (CARLUCCI) Requires that websites providing inmate information be searchable by the inmate's name, former name or alias.

S962 (FUNKE) Expands the amount of information available about registered sex offenders on the division of criminal justice services website.

S968 (MURPHY) Relates to sex offender residence limitation; restricts level two and three sex offenders from residing within 1500 feet of their victims.

S1006A (ROBACH) Ensures that a change of address, internet accounts, internet identifiers, or status of enrollment, attendance or employment or residence at an institution of higher education be filed by a sex offender no later than 3 days to DCJS (reduced from the current 10 calendar days). Also requires local law enforcement agencies transmit such notice to DCJS within 3 days.

S1009 (ROBACH) Prohibits level three sex offenders from living in college housing.

S1014 (ROBACH) Provides for a sex offender public awareness outreach program to provide educational outreach to schools, community groups and clergy on issues related to sex offenders.

S1271 (AVELLA) Directs the DOCCS commission to promulgate rules and regulations relating to residences of certain sex offenders.

S1511 (AVELLA) Relates to the timing of risk level determination hearings for certain convicted sex offenders.

S1635 (GOLDEN) Prohibits registered sex offenders from working with children.

S1647 (CARLUCCI) Relates to sex offender's notice of residency requirements; Provides that no sex offender shall reside in a residence within 1000 feet of any school building regularly used for instructional purposes, a building in which child day care is provided or a park.

S1787 (KLEIN) Prohibits sex offenders whose victim was a child and level 3 sex offenders from knowingly being within 1,000 feet of a facility where pre-kindergarten or kindergarten instruction is provided.

S2125 (RITCHIE) Relates to prohibiting civilian drone use within 1,000 feet of a correctional facility.

S2170 (SERINO) Prohibits a sex offender from being employed or allowed to volunteer for a position which would permit such person to have unsupervised access to residential living quarters, including, but not limited to, residential building superintendent, manager, or maintenance worker, etc.

S2173 (SERINO) Requires all sex offenders to verify their residence and registration on a biannual basis.

S2477 (GIANARIS) Requires registered sex offenders to personally appear at the law enforcement agency having jurisdiction for purpose of having a photograph taken; repealer.

S2595 (RANZENHOFER) Provides that any person who knowingly harbors, houses, or employs a defaulting sex offender and who fails to contact law enforcement regarding the offender is guilty of a class A misdemeanor.

S2638 (LANZA) Increases the in-person appearance requirements for level two sex offenders.

S2819 (LANZA) Enacts "Cesar's law" by requiring the retaking of parolees who abscond from the supervision of the state board of parole. Board must notify the local law enforcement agency having jurisdiction.

S2997A (LAVALLE) Increases from twenty-four to sixty months, the time for which reconsideration for parole for a violent felony offense shall be determined.

S3027A (RANZENHOFER) Relates to prohibiting any sex offender from residing in community residence licensed or operated by OMH or OPWDD.

S3030A (HELMING) Increases the penalty for failing to register as a sex offender under the Sex Offender Registry Act from a class E felony to a class D felony. Further establishes that it shall be a class D felony for violating the prohibition to employment of sex offenders on food trucks, including ice cream mobile retailers.

S3581 (GALLIVAN) Requires notice be provided to any officer or employee of the department of correctional services whose personal information is the subject of a subpoena duces tecum.

S3854 (MARCHIONE) Permits correction officers to be color blind.

S4059 (LANZA) Requires the DCJS website that provides sex offender registry information to be searchable by the zip code of the registrant's employment.

S4821 (LAVALLE) Requires any parolee, prior to release, to secure an acceptable permanent residence and not a temporary shelter, for the purpose of complying with all state and local laws and regulations regarding placement of registered sex offenders.

S5201 (CROCI) Establishes that level one sex offenders register for life (as opposed to 20 year limit). Permits level one offenders to apply to remove their name after 30 years. Further requires the court to assign a designation of sexual predator, sexually violent offender or predicate sex offender should an offender be determined to be such. Further establishes child and victim safety zones.

S5348 (MURPHY) Provides for employment limits for level three sex offenders to be outside a 500 foot radius of a daycare or school; penalty for offender is a class E felony; prohibition remains as long as offender is level three.

S6038A (FUNKE) Enhances prison sentences and revises post-release supervision requirements for persons convicted of a second violent felony, second felony or second child sexual assault felony offense.

S6189 (LANZA) Prohibits sex offenders convicted of certain sex offenses, kidnapping offenses or incest, when the victim was under 18 years of age, who are released on parole or sentenced to probation or conditional discharge to not enter public, association or free libraries.

S6322 (HOYLMAN) Directs the commissioner of DOCCS, in consultation with DOH, to undertake a study of the surveillance, prevention, treatment and prevalence of hepatitis C among the inmate population. Such study must address any procedural, regulatory, legislative, or

budgetary obstacles. Requires report to be issued to Governor and Legislature within one year of the effective date.

S6548 (MURPHY) An act to amend the correction law, in relation to dissemination of information on sex offenders from another state who have not been assigned a risk level in this state.

S7531B (RITCHIE) Requires that members and hearing officers consider all comments and testimony offered in a hearing when coming to a decision in parole hearings.

S7582A (HELMING) This bill would require the Commissioner of the Department of Corrections and Community Supervision (DOCCS) to establish a contraband screening plan in correctional facilities.

S8028A (GALLIVAN) This bill prevents the double bunking of inmates in a dormitory setting within State correctional facilities.

S8759 (AMEDORE) Prohibits sex offenders released on parole or conditionally released or on probation or conditional discharge, whose victim was a child and any level 3 sex offender from knowingly being within 1,000 feet of a child care provider, a preschool, or any facility where pre-kindergarten or kindergarten instruction is provided. Requires DOCCS to obtain a list of such facilities from SED on a quarterly basis. Further requires DOCCS to report to the Governor and Legislature on compliance.

DIED IN FOLLOWING COMMITTEE OF REFERENCE¹:

FINANCE COMMITTEE

S193 (MARCHIONE) Requires the department of corrections and community supervision to maintain the responsibility and costs of monitoring any person required to use an ignition device.

S215 (MARCHIONE) Requires that when DOCCS is seeking to close any correctional facility to submit a report to the legislature at least 365 days before seeking such closure. Provides for legislative approval of such proposed closure.

S744 (RITCHIE) Requires parole violators to be transferred to state correctional facilities after 10 days in a local correctional facility.

S1628 (GOLDEN) Affords the NYC Commissioner of Corrections the ability to transfer inmates who have been disciplined for violent offenses to a State correctional facility.

¹ The bills referred to under this heading have not been acted upon by the identified committee and therefore remain in that committee.

S2235 (PARKER) Establishes a commission to study and develop a plan for improving education in state prisons. Such plan must consider factors including the impact on an inmate's employment opportunities upon release; reintegration into society; and the effectiveness in reducing recidivism.

S2949A (RITCHIE) Requires the Commissioner of DOCCS to provide specific direction for what is adequate staffing. Further requires the establishment of a staffing plan for all uniformed and non-uniformed staff and establishes the number of necessary security posts, administrative, programmatic and other positions within the department.

S3127 (GIANARIS) Requires the Sex Offender Registry to include the name, picture and approximate address, based on zip code, of a level one sex offender. Also requires DCJS to provide a means for the public to register, via the DCJS webpage, to receive automated email notifications (currently a person must apply on a form provided by DCJS).

S3344 (BAILEY) Increases access to substance abuse programming for prisoners whose first language is not English.

S3396 (PARKER) Authorizes a study by the department of corrections and community supervision pertaining to the treatment of aging prison populations.

S6936 (GALLIVAN) To reinstate the state funded reimbursement for housing parole violators in local correctional facilities eliminated in 2009.

S7119A (ORTT) Requires the state to reimburse counties for costs incurred when holding parolees in detention facilities for technical parole violations pending a hearing with their parole officer.

S7757A (RIVERA) Establishes a pilot project for placement of inmates close to home; provides that such project would house inmates who are parents of minor children in the correctional facility located in closest proximity to the primary place of residence of any such inmate's minor child or children.

S7995 (GALLIVAN) The purpose of this measure is to clarify that law enforcement and other agencies shall provide the information necessary for the Office to investigate a claim, and that in the event the Office receives information from two or more such sources with inconsistent information, OVS will consider the totality of the circumstances when making a determination.

S8206 (RITCHIE) Prohibits the use of metal eating utensils in State correctional facilities.

S8464 (GALLIVAN) Permits third party statements be submitted to the board of parole regarding discretionary release of an inmate. The board may exclude from consideration such information if it is deemed irrelevant or unreliable.

RULES COMMITTEE

S449 (YOUNG) Limit temporary detention of defendants in violation of their release in a local correctional facility to 72 hours before transfer to state custody.

S1186 (MARCELLINO) Requires notification to victims upon the conditional release of an inmate convicted of a crime against a member of the same family or household.

S1599 (LAVALLE) Requires school districts, upon notification from law enforcement agencies, to notify residents of sex offenders living in the district.

S2178 (FUNKE) Authorizes municipalities to establish residency restrictions for sex offenders required to register with DCJS.

S3037A (MURPHY) Ensures that a change of address for a sex offender filed with a local law enforcement agency is transmitted to the state division of criminal justice services within 5 business days.

S3822 (LAVALLE) Prohibits certain persons convicted sex offenders from serving as a trustee, principal, officer, or member of a board of education of any public school in any BOCES, city, union free, common or central school district or any charter school.

S5386 (MURPHY) Prohibits level 2 or 3 sex offenders, or any sex offender whose victim was under 18, from entering or remaining upon school grounds, or upon the grounds or institution for the care or treatment of children under 18, while any such child remains upon the premises. Violations of such prohibition would constitute a class D felony.

S5392 (SERINO) Expands the Sex Offender Registration Act to require defendants convicted of endangering the welfare of a vulnerable elderly person or incompetent or physically disabled persons by engaging in sexual abuse, sex offenders registered in other jurisdictions for misdemeanor who move to New York, and offenders convicted by a court martial when ordered to register by that court martial, register as a sex offender.

S6699 (GALLIVAN) Prohibits county correction officer from dispensing medication using syringes or needles in jail to inmates.

S7122A (ORTT) This legislation would allow profits earned from the sale of items at commissaries located within County Jails to be used for the general purposes of the institution.

S8202 (GALLIVAN) To clarify eligibility for parole conditioned on deportation pursuant to Executive Law § 259-i(2)(d)(i), generally referred to as Conditional Parole for Deportation Only (“CDPO”) and Early Conditional Parole for Deportation Only (“ECPDO”).

S8741 (SEPULVEDA) Prohibits DOCCS from requiring persons on community supervision from participating in any program that would interfere with such person's employment, educational or vocational training schedule. Such prohibition would not apply to residential treatment programs.

PUBLIC HEARINGS & COMMITTEE PRESENTATIONS

A. HEARINGS TO EXAMINE PAROLE BOARD AND EXECUTIVE ORDER #181

In furtherance of our elected duties, the Senate Standing Committee on Crime Victims, Crime and Correction, along with the Committee on Elections, held public hearings to examine the State's current parole standards of release and the Governor's Executive Order granting parolees conditional pardons for the purpose of restoring voting rights.

The first of those hearings was held in Albany, New York, on Monday, October 1, 2018. The second was held on Tuesday, October 2, 2018, in Hicksville, New York. The committees evaluated both issues, in-depth, separately and apart when possible. Moreover, the committees heard testimony from a wide range of stakeholders including a former member of the parole board, representatives of schools and parole officers, and advocates for parolee rights. The feedback gleaned was instrumental in the committee's efforts to formulate recommendations. The report issued regarding these hearings, which identifies recommendations, can be found on the Senate website at: <https://www.nysenate.gov/senators/patrick-m-gallivan>.

B. PRESENTATION BY CHAIR OF THE BOARD OF PAROLE, TINA M. STANFORD, ESQ.

During a committee meeting held in February 2018, a presentation by Tina M. Stanford, Esq., Chairperson of the Board of Parole, reviewed the standards and current procedures of the New York State Board of Parole. An outline of the board's responsibilities include:

- Making responsible release decisions for parole eligible individuals and decisions in the best interest of public safety;
- Setting the special conditions of release for individuals leaving correctional settings and being supervised in the community;
- Revoking parole when it is appropriate; and
- Discharging individuals from their sentence when it is in the best interest of the community.

The chairperson informed committee members that the board is currently made up of fourteen members and thanked the committee for their support and for the six additional members the committee approved last year. She indicated that with the help of these

additional members, the parole board can now seat three members at each hearing, making for a more informed and balanced decision, especially in the event of a disagreement regarding release.

The chairperson also confirmed that a majority of parole board meetings are held via video conference; however, there are a handful of live interviews still conducted, especially in medical situations and settings. The average meeting should at a minimum take about twenty minutes although some have lasted up to six hours. She also apprised the committee of the additional responsibilities board members are tasked with, including serving on victim impact panels and working on discharging people from life sentences.

