S T A T E O F N E W Y O R K

2405

2009-2010 Regular Sessions

I N S E N A T E

February 19, 2009

Introduced by Sens. VOLKER, SCHNEIDERMAN -- read twice and ordered printed, and when printed to be committed to the Committee on Codes

AN ACT to amend the criminal procedure law, in relation to a sentence of parole supervision

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Subdivision 1 of section 410.91 of the criminal procedure law, as added by chapter 3 of the laws of 1995, is amended to read as follows:

1. A sentence of parole supervision is an indeterminate sentence of imprisonment, OR A DETERMINATE SENTENCE OF IMPRISONMENT IMPOSED PURSUANT TO PARAGRAPHS (B) AND (D) OF SUBDIVISION THREE OF SECTION 70.70 OF THE PENAL LAW, which may be imposed upon an eligible defendant, as defined in subdivision two of this section. [Such] IF AN INDETERMINATE SENTENCE, SUCH sentence shall have a minimum term and a maximum term within the ranges specified by subdivisions three and four of section 70.06 of the penal law. IF A DETERMINATE SENTENCE, SUCH SENTENCE SHALL HAVE A TERM WITHIN THE RANGES SPECIFIED BY SUBPARAGRAPHS (III) AND (IV) OF PARAGRAPH (B) OF SUBDIVISION THREE OF SECTION 70.70 OF THE PENAL LAW. Provided, however, if the court directs that the sentence be executed as a sentence of parole supervision, it shall remand the defendant for immediate delivery to a reception center operated by the state department of correctional services, in accordance with section 430.20 of this chapter and SECTION six hundred one of the correction law, for a period not to exceed ten days. An individual who receives such a sentence shall be placed under the immediate supervision of the state division of parole and must comply with the conditions of parole, which shall include an initial placement in a drug treatment campus for a period of ninety days at which time the defendant shall be released therefrom.

S 2. Subdivision 3 of section 410.91 of the criminal procedure law, as added by chapter 3 of the laws of 1995, is amended to read as follows:

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

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3. When an indeterminate OR DETERMINATE sentence of imprisonment is imposed upon an eligible defendant for a specified offense, as defined in subdivision five of this section, the court may direct that such sentence be executed as a sentence of parole supervision if the court finds (i) that the defendant has a history of controlled substance dependence that is a significant contributing factor to such defendant's criminal conduct; (ii) that such defendant's controlled substance dependence could be appropriately addressed by a sentence of parole supervision; and (iii) that imposition of such a sentence would not have an adverse effect on public safety or public confidence in the integrity of the criminal justice system.

S 3. This act shall take effect immediately; provided however that the amendments to subdivisions 1 and 3 of section 410.91 of the criminal procedure law made by sections one and two of this act shall not affect the repeal of such section and shall be deemed to be repealed therewith.