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

7856

I N S E N A T E

May 18, 2010

Introduced by Sen. STAVISKY -- 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 the crime of persistent criminal contempt

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

Section 1. The penal law is amended by adding a new section 60.15 to read as follows:

S 60.15 AUTHORIZED DISPOSITIONS; PERSISTENT CRIMINAL CONTEMPT.

1. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, WHEN A PERSON IS SENTENCED UPON A CONVICTION OF, OR UPON A YOUTHFUL OFFENDER ADJUDICATION FOR, THE CRIME OF PERSISTENT CRIMINAL CONTEMPT AS DEFINED IN SECTION 215.47 OF THIS CHAPTER, THE COURT SHALL SENTENCE THE DEFENDANT TO EITHER:

(A) A DEFINITE SENTENCE OF IMPRISONMENT, THE TERM OF WHICH SHALL BE AT LEAST SIXTY DAYS AND SHALL NOT EXCEED ONE YEAR; OR

(B) A SENTENCE OF PROBATION AND IMPRISONMENT IN ACCORDANCE WITH THE PROVISIONS OF PARAGRAPH (D) OF SUBDIVISION TWO OF SECTION 60.01 OF THIS ARTICLE APPLICABLE TO MISDEMEANOR CONVICTIONS; PROVIDED, HOWEVER, THAT THE TERM OF IMPRISONMENT IMPOSED PURSUANT TO THIS SUBDIVISION SHALL BE SIXTY DAYS. THE COURT SHALL REQUIRE, AS A CONDITION OF ANY SENTENCE OF PROBATION IMPOSED PURSUANT TO THIS PARAGRAPH, THAT THE DEFENDANT SUBMIT TO ELECTRONIC MONITORING IN ACCORDANCE WITH THE PROVISIONS OF SUBDIVISION FOUR OF SECTION 65.10 OF THIS TITLE.

2. THE RELEVANT PROVISIONS OF SECTION 60.27 OF THIS ARTICLE RELATING TO RESTITUTION AND REPARATION, AND THE RELEVANT PROVISIONS OF SECTION 60.35 OF THIS ARTICLE RELATING TO THE IMPOSITION OF A MANDATORY SURCHARGE, CRIME VICTIM ASSISTANCE FEE AND OTHER APPLICABLE FEES OR SURCHARGES, SHALL ALSO APPLY TO ANY SENTENCE IMPOSED PURSUANT TO THIS SECTION.

S 2. The penal law is amended by adding a new section 215.47 to read as follows:

S 215.47 PERSISTENT CRIMINAL CONTEMPT.

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

LBD17151-01-0

A PERSON IS GUILTY OF PERSISTENT CRIMINAL CONTEMPT WHEN HE OR SHE COMMITS THE CRIME OF CRIMINAL CONTEMPT IN THE SECOND DEGREE AS DEFINED IN SUBDIVISION THREE OF SECTION 215.50 OF THIS ARTICLE BY VIOLATING THAT PART OF A DULY SERVED ORDER OF PROTECTION, OR SUCH ORDER OF WHICH THE DEFENDANT HAS ACTUAL KNOWLEDGE BECAUSE HE OR SHE WAS PRESENT IN COURT WHEN SUCH ORDER WAS ISSUED, UNDER SECTIONS TWO HUNDRED FORTY AND TWO HUNDRED FIFTY-TWO OF THE DOMESTIC RELATIONS LAW, ARTICLES FOUR, FIVE, SIX AND EIGHT OF THE FAMILY COURT ACT OR SECTION 530.12 OR 530.13 OF THE CRIMINAL PROCEDURE LAW, OR AN ORDER OF PROTECTION ISSUED BY A COURT OF COMPETENT JURISDICTION IN ANOTHER STATE, TERRITORIAL OR TRIBAL JURISDICTION AND WHERE THE DEFENDANT HAS EITHER:

(A) PREVIOUSLY BEEN CONVICTED OF THE CRIME OF: (I) AGGRAVATED CRIMINAL CONTEMPT AS DEFINED IN SECTION 215.52 OF THIS ARTICLE, (II) CRIMINAL CONTEMPT IN THE FIRST DEGREE AS DEFINED IN SECTION 215.51 OF THIS ARTICLE, (III) CRIMINAL CONTEMPT IN THE SECOND DEGREE AS DEFINED IN SUBDIVISION THREE OF SECTION 215.50 OF THIS ARTICLE FOR VIOLATING THAT PART OF A DULY SERVED ORDER OF PROTECTION, OR SUCH ORDER OF WHICH THE DEFENDANT HAD ACTUAL KNOWLEDGE BECAUSE HE OR SHE WAS PRESENT IN COURT WHEN SUCH ORDER WAS ISSUED, UNDER SECTIONS TWO HUNDRED FORTY AND TWO HUNDRED FIFTY-TWO OF THE DOMESTIC RELATIONS LAW, ARTICLES FOUR, FIVE, SIX AND EIGHT OF THE FAMILY COURT ACT OR SECTION 530.12 OR 530.13 OF THE CRIMINAL PROCEDURE LAW, OR AN ORDER OF PROTECTION ISSUED BY A COURT OF COMPETENT JURISDICTION IN ANOTHER STATE, TERRITORIAL OR TRIBAL JURISDICTION, OR (IV) PERSISTENT CRIMINAL CONTEMPT AS DEFINED BY THIS SECTION; OR

(B) PREVIOUSLY BEEN FOUND BY ANY COURT OF COMPETENT JURISDICTION TO HAVE WILLFULLY OR INTENTIONALLY VIOLATED AN ORDER OF PROTECTION OR TEMPORARY ORDER OF PROTECTION IN ACCORDANCE WITH THE APPLICABLE PROVISIONS OF THE JUDICIARY LAW, DOMESTIC RELATIONS LAW OR FAMILY COURT ACT.

PERSISTENT CRIMINAL CONTEMPT IS A CLASS A MISDEMEANOR.

S 3. This act shall take effect on the first day of November next succeeding the date on which it shall have become a law.