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2011-2012 Regular Sessions

I N S E N A T E

(PREFILED)

January 5, 2011

Introduced by Sens. KLEIN, ADAMS, ADDABBO, DIAZ, HASSELL-THOMPSON, PARKER, SAMPSON, SAVINO -- 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 conditions of probation and of conditional discharge

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

1 Section 1. Paragraph (h) of subdivision 2 of section 65.10 of the
2 penal law, as amended by chapter 508 of the laws of 2001, is amended to
3 read as follows:
4 (h) Perform services for a public or not-for-profit corporation, asso-
5 ciation, institution or agency, including but not limited to services
6 for the [division] OFFICE of ALCOHOLISM AND substance abuse services,
7 [services in an appropriate community program for removal of graffiti
8 from public or private property, including any property damaged in the
9 underlying offense,] or services for the maintenance and repair of real
10 or personal property maintained as a cemetery plot, grave, burial place
11 or other place of interment of human remains. Provided however, that the
12 performance of any such services shall not result in the displacement of
13 employed workers or in the impairment of existing contracts for
14 services, nor shall the performance of any such services be required or
15 permitted in any establishment involved in any labor strike or lockout.
16 The court may establish provisions for the early termination of a
17 sentence of probation or conditional discharge pursuant to the
18 provisions of subdivision three of section 410.90 of the criminal proce-
19 dure law after such services have been completed. Such sentence may only
20 be imposed upon conviction of a misdemeanor, violation, or class D or
21 class E felony, or a youthful offender finding replacing any such
22 conviction, where the defendant has consented to the amount and condi-
23 tions of such service;

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

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1 S 2. Section 65.10 of the penal law is amended by adding a new subdi-
2 vision 6 to read as follows:

3 6. WHEN IMPOSING A SENTENCE OF PROBATION OR OF CONDITIONAL DISCHARGE
4 IN CONNECTION WITH A VIOLATION OF SECTION 145.60 OR 145.65 OF THIS CHAP-
5 TER, THE COURT SHALL AS A CONDITION OF THE SENTENCE, REQUIRE THAT THE
6 DEFENDANT REMOVE GRAFFITI FROM PUBLIC OR PRIVATE PROPERTY, INCLUDING ANY
7 PROPERTY DAMAGED IN THE UNDERLYING OFFENSE, UNLESS THE COURT SHALL
8 DETERMINE THAT AN APPROPRIATE PROGRAM TO SUPERVISE SUCH REMOVAL IS NOT
9 AVAILABLE OR THAT SUCH GRAFFITI REMOVAL WOULD BE UNREASONABLY DANGEROUS;
10 PROVIDED, HOWEVER, THAT GRAFFITI REMOVAL FROM PRIVATE PROPERTY PURSUANT
11 TO THIS SUBDIVISION SHALL BE SUBJECT TO CONSENT OF THE OWNER OF SUCH
12 PROPERTY.

13 S 3. This act shall take effect on the first of November next succeed-
14 ing the date on which it shall have become a law.