

2100

2013-2014 Regular Sessions

I N S E N A T E

January 10, 2013

Introduced by Sen. GOLDEN -- read twice and ordered printed, and when printed to be committed to the Committee on Codes

AN ACT to amend the penal law and the criminal procedure law, in relation to establishing terms of probation sentences and revocations thereof under certain circumstances

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

1 Section 1. Subparagraph (i) of paragraph (a) of subdivision 3 of  
2 section 65.00 of the penal law, as amended by section 20 of part AAA of  
3 chapter 56 of the laws of 2009, is amended to read as follows:

4 (i) For a felony, other than a class A-II felony defined in article  
5 two hundred twenty of this chapter or the class B felony defined in  
6 section 220.48 of this chapter, or any other class B felony defined in  
7 article two hundred twenty of this chapter committed by a second felony  
8 drug offender, or a sexual assault, the period of probation shall be A  
9 TERM OF THREE, FOUR OR five years;

10 S 2. Subparagraph (i) of paragraph (b) of subdivision 3 of section  
11 65.00 of the penal law, as amended by chapter 264 of the laws of 2003,  
12 is amended to read as follows:

13 (i) For a class A misdemeanor, other than a sexual assault, the period  
14 of probation shall be A TERM OF TWO OR three years;

15 S 3. Paragraph (d) of subdivision 3 of section 65.00 of the penal law,  
16 as amended by chapter 264 of the laws of 2003, is amended to read as  
17 follows:

18 (d) For an unclassified misdemeanor, the period of probation shall be  
19 A TERM OF TWO OR three years if the authorized sentence of imprisonment  
20 is in excess of three months, otherwise the period of probation shall be  
21 one year.

22 S 4. Subdivision 4 of section 65.00 of the penal law is renumbered  
23 subdivision 5 and a new subdivision 4 is added to read as follows:

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

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1 4. IF DURING THE PERIODS OF PROBATION REFERENCED IN SUBPARAGRAPH (I)  
2 OF PARAGRAPH (A), SUBPARAGRAPH (I) OF PARAGRAPH (B) AND PARAGRAPH (D) OF  
3 SUBDIVISION THREE OF THIS SECTION AN ALLEGED VIOLATION IS SUSTAINED AND  
4 THE COURT CONTINUES OR MODIFIES THE SENTENCE, THE COURT MAY EXTEND THE  
5 REMAINING PERIOD OF PROBATION UP TO THE MAXIMUM TERM AUTHORIZED BY THIS  
6 SECTION.

7 S 5. Subdivision 5 of section 410.70 of the criminal procedure law, as  
8 amended by chapter 112 of the laws of 1985, is amended to read as  
9 follows:

10 5. Revocation; modification; continuation. At the conclusion of the  
11 hearing the court may revoke, continue or modify the sentence of  
12 probation or conditional discharge. Where the court revokes the  
13 sentence, it must impose sentence as specified in subdivisions three and  
14 four of section 60.01 of the penal law. Where the court continues or  
15 modifies the sentence, it must vacate the declaration of delinquency and  
16 direct that the defendant be released. If the alleged violation is  
17 sustained and the court continues or modifies the sentence, it may  
18 extend the sentence up to the period of interruption specified in subdi-  
19 vision two of section 65.15 of the penal law, but any time spent in  
20 custody in any correctional institution pursuant to section 410.60 of  
21 this article shall be credited against the term of the sentence.  
22 PROVIDED FURTHER, WHERE THE ALLEGED VIOLATION IS SUSTAINED AND THE COURT  
23 CONTINUES OR MODIFIES THE SENTENCE, THE COURT MAY ALSO EXTEND THE  
24 REMAINING PERIOD OF PROBATION UP TO THE MAXIMUM TERM AUTHORIZED BY  
25 SECTION 65.00 OF THE PENAL LAW.

26 S 6. This act shall take effect immediately; provided, however, that  
27 it shall apply to offenses committed on or after the date this act shall  
28 have become a law, and provided, further, however, that it shall also  
29 apply to offenses committed before such date, where the sentence upon  
30 conviction for such offense is imposed no earlier than ten days after  
31 such date.