

9280

I N A S S E M B L Y

February 10, 2016

Introduced by M. of A. O'DONNELL -- read once and referred to the
Committee on Codes

AN ACT to amend the penal law, in relation to establishing the offense
of aggravated promoting prison contraband

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

1 Section 1. Subdivision 5 of section 60.05 of the penal law, as amended
2 by chapter 405 of the laws of 2010, is amended to read as follows:
3 5. Certain class D felonies. Except as provided in subdivision six of
4 this section, every person convicted of the class D felonies of assault
5 in the second degree as defined in section 120.05, strangulation in the
6 second degree as defined in section 121.12, PROMOTING PRISON CONTRABAND
7 IN THE FIRST DEGREE, AS DEFINED IN SUBDIVISION THREE OF SECTION 205.25,
8 AGGRAVATED PROMOTING PRISON CONTRABAND AS DEFINED IN SECTION 220.26 or
9 attempt to commit a class C felony as defined in section 230.30 of this
10 chapter, must be sentenced in accordance with section 70.00 or 85.00 of
11 this title.

12 S 2. Section 70.00 of the penal law is amended by adding a new subdi-
13 vision 4-a to read as follows:

14 4-A. NOTWITHSTANDING THE PROVISIONS OF SUBDIVISION FOUR OF THIS
15 SECTION, WHEN A PERSON, OTHER THAN A SECOND OR PERSISTENT FELONY OFFEN-
16 DER, IS SENTENCED FOR A CLASS D FELONY OFFENSE OF AGGRAVATED PROMOTING
17 PRISON CONTRABAND, AS DEFINED IN SECTION 220.26 OF THIS CHAPTER, AND THE
18 COURT, HAVING REGARD TO THE NATURE AND CIRCUMSTANCES OF THE CRIME AND TO
19 THE HISTORY AND CHARACTER OF THE DEFENDANT, IS OF THE OPINION THAT IT
20 WOULD BE UNDULY HARSH TO IMPOSE AN INDETERMINATE SENTENCE, THE COURT MAY
21 IMPOSE A DEFINITE SENTENCE OF IMPRISONMENT AND FIX A TERM OF ONE OR MORE
22 MONTHS, UP TO ONE YEAR.

23 S 3. Section 205.25 of the penal law is amended to read as follows:
24 S 205.25 Promoting prison contraband in the first degree.

25 A person is guilty of promoting prison contraband in the first degree
26 when:

27 1. He OR SHE knowingly and unlawfully introduces any dangerous contra-
28 band into a detention facility; or

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

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1 2. Being a person confined in a detention facility, he OR SHE knowing-
2 ly and unlawfully makes, obtains or possesses any dangerous contraband;
3 OR

4 3. BEING AN EMPLOYEE OF AN INSTITUTION IN THE DEPARTMENT OF CORREC-
5 TIONAL SERVICES AND COMMUNITY SUPERVISION, AS DEFINED IN PARAGRAPH (C)
6 OF SUBDIVISION FOUR OF SECTION TWO OF THE CORRECTION LAW, OR OF A LOCAL
7 CORRECTIONAL FACILITY, AS DEFINED IN SUBDIVISION SIXTEEN OF SUCH
8 SECTION, AND ACTING WITH INTENT TO OBTAIN A BENEFIT OR AID AN ESCAPE, HE
9 OR SHE KNOWINGLY AND UNLAWFULLY INTRODUCES ANY CONTRABAND INTO A
10 DETENTION FACILITY.

11 Promoting prison contraband in the first degree is a class D felony.

12 S 4. The penal law is amended by adding a new section 220.26 to read
13 as follows:

14 S 220.26 AGGRAVATED PROMOTING PRISON CONTRABAND.

15 A PERSON IS GUILTY OF AGGRAVATED PROMOTING PRISON CONTRABAND WHEN,
16 BEING AN EMPLOYEE OF AN INSTITUTION IN THE DEPARTMENT OF CORRECTIONAL
17 SERVICES AND COMMUNITY SUPERVISION, AS DEFINED IN PARAGRAPH (C) OF
18 SUBDIVISION FOUR OF SECTION TWO OF THE CORRECTION LAW, OR OF A LOCAL
19 CORRECTIONAL FACILITY, AS DEFINED IN SUBDIVISION SIXTEEN OF SUCH
20 SECTION, HE OR SHE KNOWINGLY AND UNLAWFULLY INTRODUCES ANY DANGEROUS
21 CONTRABAND INTO A DETENTION FACILITY, WITH INTENT TO:

22 1. OBTAIN A BENEFIT; OR

23 2. AID AN ESCAPE.

24 AGGRAVATED PROMOTING PRISON CONTRABAND IS A CLASS D FELONY.

25 S 5. This act shall take effect on the sixtieth day after it shall
26 have become a law.