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I N A S S E M B L Y

March 10, 2016

Introduced by M. of A. MOSLEY, LENTOL -- (at request of the Office of Court Administration) -- read once and referred to the Committee on Codes

AN ACT to amend the criminal procedure law, in relation to availability of pre-sentencing reports

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

1 Section 1. Paragraph (a) of subdivision 2 of section 390.50 of the
2 criminal procedure law, as amended by section 5 of part 00 of chapter 56
3 of the laws of 2010, is amended to read as follows:
4 (a) Not less than one court day prior to sentencing, unless such time
5 requirement is waived by the parties, the pre-sentence report or memo-
6 randum shall be made available by the court for examination and for
7 copying by the defendant's attorney, the defendant himself, if he has no
8 attorney, and the prosecutor. In its discretion, the court may except
9 from disclosure a part or parts of the report or memoranda which are not
10 relevant to a proper sentence, or a diagnostic opinion which might seri-
11 ously disrupt a program of rehabilitation, or sources of information
12 which have been obtained on a promise of confidentiality, or any other
13 portion thereof, disclosure of which would not be in the interest of
14 justice. In all cases where a part or parts of the report or memoranda
15 are not disclosed, the court shall state for the record that a part or
16 parts of the report or memoranda have been excepted and the reasons for
17 its action. The action of the court excepting information from disclo-
18 sure shall be subject to appellate review. The pre-sentence report shall
19 be made available by the court for examination and copying in connection
20 with any appeal OR POST-JUDGEMENT MOTION in the case, including an
21 appeal under this subdivision. Upon written request, the court shall
22 make a copy of the presentence report, other than a part or parts of the
23 report redacted by the court pursuant to this paragraph, available to
24 the defendant for use before the parole board for release consideration
25 or an appeal of a parole board determination. In his or her written
26 request to the court the defendant shall affirm that he or she antic-
27 ipates an appearance before the parole board or intends to file an

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

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1 administrative appeal of a parole board determination. The court shall
2 respond to the defendant's written request within twenty days from
3 receipt of the defendant's written request.
4 S 2. This act shall take effect immediately.