

5792--A

2015-2016 Regular Sessions

I N S E N A T E

June 3, 2015

Introduced by Sens. MARCHIONE, BOYLE, CROCI, LARKIN, PARKER, STAVISKY -- read twice and ordered printed, and when printed to be committed to the Committee on Codes -- recommitted to the Committee on Codes in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the criminal procedure law, in relation to enabling the victim of a misdemeanor to make a statement at the sentencing of the defendant

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

1 Section 1. This act shall be known and may be cited as "Emma's Law".
2 S 2. Paragraphs (a) and (b) of subdivision 2 of section 380.50 of the
3 criminal procedure law, paragraph (a) as amended by chapter 499 of the
4 laws of 1993, subparagraph 2 of paragraph (a) as separately amended by
5 chapters 173 and 198 of the laws of 1996, and paragraph (b) as added by
6 chapter 307 of the laws of 1992, are amended to read as follows:
7 (a) For purposes of this section "victim" shall mean:
8 (1) the victim as indicated in the accusatory instrument OR AS INDI-
9 CATED IN THE PRE-SENTENCE INVESTIGATION CONDUCTED PURSUANT TO SECTION
10 390.20 OF THIS TITLE; or
11 (2) if such victim is unable or unwilling to express himself or
12 herself before the court or a person so mentally or physically disabled
13 as to make it impracticable to appear in court in person or the victim
14 is deceased, a member of the family of such victim, or the legal guardi-
15 an or representative of the legal guardian of the victim where such
16 guardian or representative has personal knowledge of and a relationship
17 with the victim, unless the court finds that it would be inappropriate
18 for such person to make a statement on behalf of the victim.
19 (b) If the defendant is being sentenced for a felony OR A MISDEMEANOR,
20 the court, if requested at least ten days prior to the sentencing date,

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

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1 shall accord the victim the right to make a statement with regard to any
2 matter relevant to the question of sentence. The court shall notify the
3 defendant no less than seven days prior to sentencing of the victim's
4 intent to make a statement at sentencing. If the defendant does not
5 receive timely notice pursuant to this subdivision, the defendant may
6 request a reasonable adjournment.

7 S 3. The opening paragraph of subdivision 2 of section 390.20 of the
8 criminal procedure law, as amended by chapter 413 of the laws of 1991,
9 is amended to read as follows:

10 Requirement for misdemeanors. Where a person is convicted of a misde-
11 meanor a pre-sentence report is not required, but the court may not
12 pronounce any of the following sentences unless it has ordered a pre-
13 sentence investigation of the defendant and has received a written
14 report thereof OR A PRE-SENTENCE INVESTIGATION OF THE DEFENDANT HAS BEEN
15 REQUESTED BY EITHER THE PROSECUTOR OR THE DEFENDANT AND THE COURT HAS
16 RECEIVED A WRITTEN REPORT THEREOF:

17 S 4. This act shall take effect immediately.