

STATE OF NEW YORK

118

2021-2022 Regular Sessions

IN ASSEMBLY

(Prefiled)

January 6, 2021

Introduced by M. of A. PAULIN, GOTTFRIED, PICHARDO -- read once and referred to the Committee on Codes

AN ACT to amend the executive law and the criminal procedure law, in relation to the definition of designated offender

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Subdivision 7 of section 995 of the executive law, as
2 amended by chapter 19 of the laws of 2012, is amended to read as
3 follows:

4 7. "Designated offender" means a person convicted of any felony
5 defined in any chapter of the laws of the state or any misdemeanor
6 defined in the penal law except: (a) that where the person is convicted
7 under section 221.10 of the penal law, only a person convicted under
8 subdivision two of such section, or a person convicted under subdivision
9 one of such section who stands previously convicted of any crime as
10 defined in subdivision six of section 10.00 of the penal law[-]; and
11 (b)(i) a person convicted of loitering for the purpose of engaging in
12 prostitution under subdivision two of section 240.37 of the penal law,
13 (ii) a person convicted of prostitution under section 230.00 of the
14 penal law, or (iii) a person whose participation in the offense is
15 determined by a court to have been a result of having been a victim of
16 sex trafficking under section 230.34 of the penal law, sex trafficking
17 of a child under section 230.34-a of the penal law, or trafficking in
18 persons under the trafficking victims protection act (United States
19 Code, Title 22, Chapter 78).

20 § 2. Subdivision 2 of section 420.35 of the criminal procedure law, as
21 amended by chapter 144 of the laws of 2020, is amended to read as
22 follows:

23 2. Except as provided in this subdivision or subdivision two-a of this
24 section, under no circumstances shall the mandatory surcharge, sex

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

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1 offender registration fee, DNA databank fee or the crime victim assist-
2 ance fee be waived. A court shall waive any mandatory surcharge, DNA
3 databank fee and crime victim assistance fee when: (i) the defendant is
4 convicted of loitering for the purpose of engaging in prostitution under
5 subdivision two of section 240.37 of the penal law [~~(provided that the~~
6 ~~defendant was not convicted of loitering for the purpose of patronizing~~
7 ~~a person for prostitution)~~]; (ii) the defendant is convicted of prosti-
8 tution under section 230.00 of the penal law; (iii) the defendant is
9 convicted of a violation in the event such conviction is in lieu of a
10 plea to or conviction for loitering for the purpose of engaging in pros-
11 titution under subdivision two of section 240.37 of the penal law
12 [~~(provided that the defendant was not alleged to be loitering for the~~
13 ~~purpose of patronizing a person for prostitution)~~] or prostitution under
14 section 230.00 of the penal law; [~~or~~] (iv) the court finds that a
15 defendant is a victim of sex trafficking under section 230.34 of the
16 penal law or a victim of trafficking in persons under the trafficking
17 victims protection act (United States Code, Title 22, Chapter 78); or
18 (v) the court finds that the defendant is a victim of sex trafficking of
19 a child under section 230.34-a of the penal law.

20 § 3. This act shall take effect immediately.