S T A T E O F N E W Y O R K

1230

2009-2010 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 7, 2009

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

AN ACT to amend the family court act and the penal law, in relation to authorizing the use of paddling as punishment for juvenile delinquents and youthful offenders found to have committed an act of graffiti

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

Section 1. Section 352.2 of the family court act is amended by adding a new subdivision 1-a to read as follows:

1-A. (A) IN ADDITION TO ANY OTHER DISPOSITION AUTHORIZED PURSUANT TO THIS SECTION, THE COURT MAY ORDER THE PADDLING OF ANY RESPONDENT THIRTEEN YEARS OF AGE OR OLDER FOUND TO HAVE COMMITTED ACTS WHICH WOULD CONSTITUTE THE OFFENSE OF MAKING GRAFFITI, AS DEFINED IN SECTION 145.60 OF THE PENAL LAW. THE COURT, IN ORDERING SUCH PADDLING SHALL CONSIDER THE AGE, CONDITION AND DISPOSITION OF THE RESPONDENT AND ALL ATTENDING AND SURROUNDING CIRCUMSTANCES IN DETERMINING WHETHER AND TO WHAT EXTENT PADDLING SHALL BE ORDERED. PADDLING, IF ORDERED, SHALL BE ADMINISTERED IN EITHER THE COURTROOM OR SUCH OTHER SUITABLE LOCATION AS DETERMINED BY THE COURT AT A TIME SET BY THE COURT NO LESS THAN SEVENTY-TWO HOURS NOR MORE THAN FOURTEEN DAYS AFTER THE DISPOSITIONAL HEARING. PADDLING SHALL BE ADMINISTERED BY A PARENT OR GUARDIAN OF THE RESPONDENT. HOWEVER, IF A PARENT OR GUARDIAN REFUSES TO ADMINISTER THE PADDLING, OR IF THE COURT DETERMINES THE PARENT OR GUARDIAN FAILED TO ADMINISTER A SATISFACTORY PADDLING, THE COURT MAY ORDER AN APPROPRIATE COURT OFFICER TO ADMINISTER THE PADDLING.

(B) FOR THE PURPOSE OF THIS SUBDIVISION:

(I) A "PADDLE" SHALL BE MADE OF HARDWOOD THAT IS THREE-QUARTERS OF AN INCH THICK. THE HANDLE OF SUCH PADDLE SHALL BE SIX INCHES LONG AND ONE AND ONE-QUARTER INCHES WIDE. THE PADDLE AREA SHALL BE EIGHTEEN INCHES LONG AND SIX INCHES WIDE;

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

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(II) "PADDLING" SHALL MEAN NOT MORE THAN TEN STRIKES WITH A PADDLE ON THE BUTTOCKS OF A RESPONDENT ADMINISTERED ON THE OUTSIDE OF NORMAL APPAREL, AS DETERMINED BY THE COURT.

S 2. The penal law is amended by adding a new section 60.14 to read as follows:

S 60.14 AUTHORIZED DISPOSITION; MAKING GRAFFITI.

1. IN ADDITION TO ANY OF THE DISPOSITIONS AUTHORIZED BY THIS ARTICLE, THE COURT MAY ORDER THE PADDLING OF ANY YOUTH CONVICTED OF THE CRIME OF MAKING GRAFFITI WHO IS ADJUDICATED AS A YOUTHFUL OFFENDER PURSUANT TO ARTICLE SEVEN HUNDRED TWENTY OF THE CRIMINAL PROCEDURE LAW.

2. PADDLING, IF ORDERED, SHALL BE ADMINISTERED IN EITHER THE COURTROOM OR SUCH OTHER SUITABLE LOCATION AS DETERMINED BY THE COURT AT A TIME SET BY THE COURT NO LESS THAN SEVENTY-TWO HOURS NOR MORE THAN FOURTEEN DAYS AFTER SENTENCING OF SUCH YOUTHFUL OFFENDER. PADDLING SHALL BE ADMINISTERED BY A PARENT OR GUARDIAN OF SUCH YOUTHFUL OFFENDER. HOWEVER, IF A PARENT OR GUARDIAN REFUSES TO ADMINISTER THE PADDLING, OR IF THE COURT DETERMINES THE PARENT OR GUARDIAN FAILED TO ADMINISTER A SATISFACTORY PADDLING, THE COURT MAY ORDER AN APPROPRIATE COURT OFFICER TO ADMINISTER THE PADDLING.

3. FOR THE PURPOSE OF THIS SECTION:

(A) A "PADDLE" SHALL BE MADE OF HARDWOOD THAT IS THREE-QUARTERS OF AN INCH THICK. THE HANDLE OF SUCH PADDLE SHALL BE SIX INCHES LONG AND ONE AND ONE-QUARTER INCHES WIDE. THE PADDLE AREA SHALL BE EIGHTEEN INCHES LONG AND SIX INCHES WIDE;

(B) "PADDLING" SHALL MEAN NOT MORE THAN TEN STRIKES WITH A PADDLE ON THE BUTTOCKS OF A RESPONDENT ADMINISTERED ON THE OUTSIDE OF NORMAL APPAREL, AS DETERMINED BY THE COURT.

S 3. This act shall take effect on the first of November next succeeding the date on which it shall have become a law, and shall apply to offenses committed on or after such effective date.