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

3034

2009-2010 Regular Sessions

I N A S S E M B L Y

January 22, 2009

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

AN ACT to amend the criminal procedure law, in relation to statements at sentencing

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

Section 1. Subdivision 2 of section 380.40 of the criminal procedure law is amended to read as follows:

2. Exception. Where sentence is to be pronounced for a misdemeanor or for a petty offense, the court may, on motion of the defendant AND WHEN THE VICTIM HAS NOT REQUESTED TO MAKE A STATEMENT AS PROVIDED IN SECTION 380.50 OF THIS ARTICLE, dispense with the requirement that the defendant be personally present. Any such motion must be accompanied by a waiver, signed and acknowledged by the defendant, reciting the maximum sentence that may be imposed for the offense and stating that the defendant waives the right to be personally present at the time sentence is pronounced.

S 2. Paragraph (b) of subdivision 2 of section 380.50 of the criminal procedure law, as added by chapter 307 of the laws of 1992, is amended to read as follows:

(b) If the defendant is being sentenced for a felony OR A MISDEMEANOR the court, if requested at least ten days prior to the sentencing date, shall accord the victim the right to make a statement with regard to any matter relevant to the question of sentence. The court shall notify the defendant no less than seven days prior to sentencing of the victim's intent to make a statement at sentencing. If the defendant does not receive timely notice pursuant to this subdivision, the defendant may request a reasonable adjournment.

S 3. This act shall take effect on the ninetieth day after it shall have become a law.

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

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