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

4391

2009-2010 Regular Sessions

I N A S S E M B L Y

February 3, 2009

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

AN ACT to amend the criminal procedure law, in relation to sentencing for the crimes of making graffiti and possession of graffiti instruments

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

Section 1. Section 380.40 of the criminal procedure law is amended by adding a new subdivision 4 to read as follows:

4. THE DEFENDANT'S PARENT OR LEGAL GUARDIAN SHALL BE PRESENT AT THE SENTENCING OF ANY YOUTH, AS DEFINED IN SUBDIVISION ONE OF SECTION 720.10 OF THIS CHAPTER, WHO HAS BEEN CONVICTED OF THE CRIME OF MAKING GRAFFITI, PURSUANT TO SECTION 145.60 OF THE PENAL LAW, OR POSSESSION OF GRAFFITI INSTRUMENTS, PURSUANT TO SECTION 145.65 OF THE PENAL LAW, WHERE THE SENTENCE TO BE IMPOSED MAY INCLUDE COMMUNITY SERVICE OR SERVICES FOR THE PUBLIC GOOD. HOWEVER, THE COURT SHALL NOT BE PREVENTED FROM PROCEEDING BY THE ABSENCE OF SUCH PARENT OR LEGAL GUARDIAN IF REASONABLE EFFORT HAS BEEN MADE TO NOTIFY SUCH PARENT OR GUARDIAN, IF THE DEFENDANT WAIVES THE PRESENCE OF THE PARENT OR LEGAL GUARDIAN, OR IF THE DEFENDANT IS NO LONGER RESIDING WITH, OR IS NOT A LEGAL DEPENDENT OF, SUCH PARENT OR LEGAL GUARDIAN.

S 2. This act shall take effect on the first of November next succeeding the date on which 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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