

6584

2009-2010 Regular Sessions

I N A S S E M B L Y

March 6, 2009

Introduced by M. of A. BURLING, RABBITT, TOWNSEND, SCOZZAFAVA, FINCH --
Multi-Sponsored by -- M. of A. ALFANO, BACALLES, BARCLAY, BARRA,
CALHOUN, CONTE, CROUCH, ERRIGO, FITZPATRICK, GIGLIO, HAWLEY, KOLB,
McDONOUGH, McKEVITT, MILLER, MOLINARO, OAKS, O'MARA, QUINN, RAIA,
SAYWARD, SPANO, TEDISCO, WALKER -- read once and referred to the
Committee on Codes

AN ACT to amend the penal law and the criminal procedure law, in
relation to criminal diversion of prescription medications and
prescriptions

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

1 Section 1. Subdivision 2 and the opening paragraph and paragraphs (a)
2 and (b) of subdivision 3 of section 178.00 of the penal law, as added by
3 chapter 81 of the laws of 1995, are amended to read as follows:
4 2. "Prescription" means a direction or authorization by means of a
5 written prescription form or an oral prescription which permits OR
6 PURPORTS TO PERMIT a person to lawfully obtain a prescription medication
7 or device from any person authorized to dispense such prescription medi-
8 cation or device.
9 "Criminal diversion act" means an act, or acts CONSTITUTING A SYSTEM-
10 ATIC COURSE OF CONDUCT, in which a person knowingly:
11 (a) transfers or delivers, in exchange for anything of pecuniary
12 value, a prescription medication or device with [knowledge] BELIEF or
13 reasonable grounds to [know] BELIEVE that the recipient has no medical
14 need for it; or
15 (b) receives, in exchange for anything of pecuniary value, a
16 prescription medication or device with [knowledge] BELIEF or reasonable
17 grounds to [know] BELIEVE that the seller or transferor is not author-
18 ized by law to sell or transfer such prescription medication or device;
19 or

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

LBD06362-01-9

1 S 2. Section 178.00 of the penal law is amended by adding a new subdi-
2 vision 4 to read as follows:

3 4. "VALUE OF THE BENEFIT EXCHANGED" MEANS THE VALUE OF THE
4 PRESCRIPTION MEDICATION OR DEVICE IF PURCHASED LAWFULLY.

5 S 3. Section 178.10 of the penal law, as added by chapter 81 of the
6 laws of 1995, is amended to read as follows:

7 S 178.10 Criminal diversion of prescription medications and
8 prescriptions in the [fourth] FIFTH degree.

9 A person is guilty of criminal diversion of prescription medications
10 and prescriptions in the [fourth] FIFTH degree when he or she commits a
11 criminal diversion act.

12 Criminal diversion of prescription medications and prescriptions in
13 the [fourth] FIFTH degree is a class A misdemeanor.

14 S 4. Section 178.15 of the penal law, as added by chapter 81 of the
15 laws of 1995, is amended to read as follows:

16 S 178.15 Criminal diversion of prescription medications and
17 prescriptions in the [third] FOURTH degree.

18 A person is guilty of criminal diversion of prescription medications
19 and prescriptions in the [third] FOURTH degree when he or she:

20 1. commits a criminal diversion act, and the value of the benefit
21 exchanged is in excess of one thousand dollars; or

22 2. commits the crime of criminal diversion of prescription medications
23 and prescriptions in the [fourth] FIFTH degree, and has previously been
24 convicted of [the crime of criminal diversion of prescription medica-
25 tions and prescriptions in the fourth degree.] ANY OFFENSE PURSUANT TO
26 THIS ARTICLE; OR

27 3. COMMITS THE CRIME OF CRIMINAL DIVERSION OF PRESCRIPTION MEDICATIONS
28 AND PRESCRIPTIONS IN THE FIFTH DEGREE AND SUCH PERSON IS A DULY LICENSED
29 PHARMACIST.

30 Criminal diversion of prescription medications and prescriptions in
31 the [third] FOURTH degree is a class E felony.

32 S 5. Section 178.20 of the penal law, as added by chapter 81 of the
33 laws of 1995, is amended to read as follows:

34 S 178.20 Criminal diversion of prescription medications and
35 prescriptions in the [second] THIRD degree.

36 A person is guilty of criminal diversion of prescription medications
37 and prescriptions in the [second] THIRD degree when he or she [commits]:

38 1. COMMITS a criminal diversion act, and the value of the benefit
39 exchanged is in excess of three thousand dollars[.]; OR

40 2. COMMITS THE CRIME OF CRIMINAL DIVERSION OF PRESCRIPTION MEDICATIONS
41 AND PRESCRIPTIONS IN THE FOURTH DEGREE AND SUCH PERSON IS A DULY
42 LICENSED PHARMACIST.

43 Criminal diversion of prescription medications and prescriptions in
44 the [second] THIRD degree is a class D felony.

45 S 6. Section 178.25 of the penal law, as added by chapter 81 of the
46 laws of 1995, is amended to read as follows:

47 S 178.25 Criminal diversion of prescription medications and
48 prescriptions in the [first] SECOND degree.

49 A person is guilty of criminal diversion of prescription medications
50 and prescriptions in the [first] SECOND degree when he or she:

51 1. commits a criminal diversion act, and the value of the benefit
52 exchanged is in excess of fifty thousand dollars[.]; OR

53 2. COMMITS THE CRIME OF CRIMINAL DIVERSION OF PRESCRIPTION MEDICATIONS
54 AND PRESCRIPTIONS IN THE THIRD DEGREE AND SUCH PERSON IS A DULY LICENSED
55 PHARMACIST.

1 Criminal diversion of prescription medications and prescriptions in
2 the [first] SECOND degree is a class C felony.

3 S 7. The penal law is amended by adding a new section 178.30 to read
4 as follows:

5 S 178.30 CRIMINAL DIVERSION OF PRESCRIPTION MEDICATIONS AND
6 PRESCRIPTIONS IN THE FIRST DEGREE.

7 A PERSON IS GUILTY OF CRIMINAL DIVERSION OF PRESCRIPTION MEDICATIONS
8 AND PRESCRIPTIONS IN THE FIRST DEGREE WHEN HE OR SHE:

9 1. COMMITS A CRIMINAL DIVERSION ACT AND THE VALUE OF THE BENEFIT
10 EXCHANGED IS IN EXCESS OF ONE MILLION DOLLARS; OR

11 2. COMMITS THE CRIME OF CRIMINAL DIVERSION OF PRESCRIPTION MEDICATIONS
12 AND PRESCRIPTIONS IN THE SECOND DEGREE AND SUCH PERSON IS A DULY
13 LICENSED PHARMACIST.

14 CRIMINAL DIVERSION OF PRESCRIPTION MEDICATIONS AND PRESCRIPTIONS IN
15 THE FIRST DEGREE IS A CLASS B FELONY.

16 S 8. The penal law is amended by adding a new section 178.35 to read
17 as follows:

18 S 178.35 CRIMINAL POSSESSION OF CRIMINALLY DIVERTED PRESCRIPTION MEDICA-
19 TIONS AND DEVICES IN THE FIFTH DEGREE.

20 A PERSON IS GUILTY OF CRIMINAL POSSESSION OF CRIMINALLY DIVERTED
21 PRESCRIPTION MEDICATIONS AND DEVICES IN THE FIFTH DEGREE WHEN HE OR SHE
22 KNOWINGLY POSSESSES ONE OR MORE OF THESE ITEMS UNDER CIRCUMSTANCES
23 EVINCING THE INTENT TO ENGAGE IN A CRIMINAL DIVERSION ACT OR BELIEF THAT
24 SUCH ITEMS WERE ACQUIRED IN ONE OR MORE CRIMINAL DIVERSION ACTS.

25 CRIMINAL POSSESSION OF CRIMINALLY DIVERTED PRESCRIPTION MEDICATIONS
26 AND DEVICES IN THE FIFTH DEGREE IS A CLASS A MISDEMEANOR.

27 S 9. The penal law is amended by adding a new section 178.40 to read
28 as follows:

29 S 178.40 CRIMINAL POSSESSION OF CRIMINALLY DIVERTED PRESCRIPTION MEDICA-
30 TIONS AND DEVICES IN THE FOURTH DEGREE.

31 A PERSON IS GUILTY OF CRIMINAL POSSESSION OF CRIMINALLY DIVERTED
32 PRESCRIPTION MEDICATIONS AND DEVICES IN THE FOURTH DEGREE WHEN HE OR
33 SHE:

34 1. KNOWINGLY POSSESSES CRIMINALLY DIVERTED PRESCRIPTION MEDICATIONS OR
35 DEVICES AND THE AGGREGATE VALUE OF THE ITEMS SO POSSESSED, AS IF
36 PURCHASED LAWFULLY, IS IN EXCESS OF ONE THOUSAND DOLLARS; OR

37 2. COMMITS THE CRIME OF CRIMINAL POSSESSION OF CRIMINALLY DIVERTED
38 PRESCRIPTION MEDICATIONS AND DEVICES IN THE FIFTH DEGREE AND HAS PREVI-
39 OUSLY BEEN CONVICTED OF ANY CRIME SET FORTH IN THIS ARTICLE; OR

40 3. COMMITS THE CRIME OF CRIMINAL POSSESSION OF CRIMINALLY DIVERTED
41 PRESCRIPTION MEDICATIONS AND DEVICES IN THE FIFTH DEGREE AND SUCH PERSON
42 IS A DULY LICENSED PHARMACIST.

43 CRIMINAL POSSESSION OF CRIMINALLY DIVERTED PRESCRIPTION MEDICATIONS
44 AND DEVICES IN THE FOURTH DEGREE IS A CLASS E FELONY.

45 S 10. The penal law is amended by adding a new section 178.45 to read
46 as follows:

47 S 178.45 CRIMINAL POSSESSION OF CRIMINALLY DIVERTED PRESCRIPTION MEDICA-
48 TIONS AND DEVICES IN THE THIRD DEGREE.

49 A PERSON IS GUILTY OF CRIMINAL POSSESSION OF CRIMINALLY DIVERTED
50 PRESCRIPTION MEDICATIONS AND DEVICES IN THE THIRD DEGREE WHEN HE OR SHE:

51 1. KNOWINGLY POSSESSES CRIMINALLY DIVERTED PRESCRIPTION MEDICATIONS OR
52 DEVICES AND THE AGGREGATE VALUE OF THE ITEMS SO POSSESSED, AS IF
53 PURCHASED LAWFULLY, IS IN EXCESS OF THREE THOUSAND DOLLARS; OR

54 2. COMMITS THE CRIME OF CRIMINAL POSSESSION OF CRIMINALLY DIVERTED
55 PRESCRIPTION MEDICATIONS AND DEVICES IN THE FOURTH DEGREE AND SUCH
56 PERSON IS A DULY LICENSED PHARMACIST.

1 CRIMINAL POSSESSION OF CRIMINALLY DIVERTED PRESCRIPTION MEDICATIONS
2 AND DEVICES IN THE THIRD DEGREE IS A CLASS D FELONY.

3 S 11. The penal law is amended by adding a new section 178.50 to read
4 as follows:

5 S 178.50 CRIMINAL POSSESSION OF CRIMINALLY DIVERTED PRESCRIPTION MEDICA-
6 TIONS AND DEVICES IN THE SECOND DEGREE.

7 A PERSON IS GUILTY OF CRIMINAL POSSESSION OF CRIMINALLY DIVERTED
8 PRESCRIPTION MEDICATIONS AND DEVICES IN THE SECOND DEGREE WHEN HE OR
9 SHE:

10 1. KNOWINGLY POSSESSES CRIMINALLY DIVERTED PRESCRIPTION MEDICATIONS OR
11 DEVICES AND THE AGGREGATE VALUE OF THE ITEMS SO POSSESSED, AS IF
12 PURCHASED LAWFULLY, IS IN EXCESS OF FIFTY THOUSAND DOLLARS; OR

13 2. COMMITS THE CRIME OF CRIMINAL POSSESSION OF CRIMINALLY DIVERTED
14 PRESCRIPTION MEDICATIONS AND DEVICES IN THE THIRD DEGREE AND SUCH PERSON
15 IS A DULY LICENSED PHARMACIST.

16 CRIMINAL POSSESSION OF CRIMINALLY DIVERTED PRESCRIPTION MEDICATIONS
17 AND DEVICES IN THE SECOND DEGREE IS A CLASS C FELONY.

18 S 12. The penal law is amended by adding a new section 178.55 to read
19 as follows:

20 S 178.55 CRIMINAL POSSESSION OF CRIMINALLY DIVERTED PRESCRIPTION MEDICA-
21 TIONS AND DEVICES IN THE FIRST DEGREE.

22 A PERSON IS GUILTY OF CRIMINAL POSSESSION OF CRIMINALLY DIVERTED
23 PRESCRIPTION MEDICATIONS AND DEVICES IN THE FIRST DEGREE WHEN HE OR SHE:

24 1. KNOWINGLY POSSESSES CRIMINALLY DIVERTED PRESCRIPTION MEDICATIONS OR
25 DEVICES AND THE AGGREGATE VALUE OF THE ITEMS SO POSSESSED, AS IF
26 PURCHASED LAWFULLY, IS IN EXCESS OF ONE MILLION DOLLARS; OR

27 2. COMMITS THE CRIME OF CRIMINAL POSSESSION OF CRIMINALLY DIVERTED
28 PRESCRIPTION MEDICATIONS AND DEVICES IN THE SECOND DEGREE AND SUCH
29 PERSON IS A DULY LICENSED PHARMACIST.

30 CRIMINAL POSSESSION OF CRIMINALLY DIVERTED PRESCRIPTION MEDICATIONS
31 AND DEVICES IN THE FIRST DEGREE IS A CLASS B FELONY.

32 S 13. The penal law is amended by adding a new section 178.60 to read
33 as follows:

34 S 178.60 CRIMINAL POSSESSION OF CRIMINALLY DIVERTED PRESCRIPTION MEDICA-
35 TIONS AND DEVICES; REBUTTABLE PRESUMPTIONS.

36 1. A PERSON IS PRESUMED TO KNOWINGLY POSSESS CRIMINALLY DIVERTED
37 PRESCRIPTION MEDICATIONS AND DEVICES WHEN HE OR SHE POSSESSES SUCH ITEMS
38 IN FIVE OR MORE PREVIOUSLY DISPENSED CONTAINERS WITH THE NAMES OF
39 DIFFERENT PERSONS APPEARING ON SUCH CONTAINERS.

40 2. A PERSON IS PRESUMED TO KNOWINGLY POSSESS CRIMINALLY DIVERTED
41 PRESCRIPTION MEDICATIONS OR DEVICES WHEN HE OR SHE POSSESSES SUCH ITEMS
42 IN FIVE OR MORE CONTAINERS OTHER THAN THOSE IN WHICH HE OR SHE IS
43 AUTHORIZED TO POSSESS PURSUANT TO SECTIONS SIXTY-EIGHT HUNDRED ELEVEN
44 AND SIXTY-EIGHT HUNDRED FIFTEEN OF THE EDUCATION LAW.

45 S 14. Paragraph (a) of subdivision 1 of section 460.10 of the penal
46 law, as separately amended by chapters 312 and 472 of the laws of 2008,
47 is amended to read as follows:

48 (a) Any of the felonies set forth in this chapter: sections 120.05,
49 120.10 and 120.11 relating to assault; sections 125.10 to 125.27 relat-
50 ing to homicide; sections 130.25, 130.30 and 130.35 relating to rape;
51 sections 135.20 and 135.25 relating to kidnapping; section 135.35 relat-
52 ing to labor trafficking; section 135.65 relating to coercion; sections
53 140.20, 140.25 and 140.30 relating to burglary; sections 145.05, 145.10
54 and 145.12 relating to criminal mischief; article one hundred fifty
55 relating to arson; sections 155.30, 155.35, 155.40 and 155.42 relating
56 to grand larceny; sections 177.10, 177.15, 177.20 and 177.25 relating to

1 health care fraud; article one hundred sixty relating to robbery;
2 sections 165.45, 165.50, 165.52 and 165.54 relating to criminal
3 possession of stolen property; sections 165.72 and 165.73 relating to
4 trademark counterfeiting; sections 170.10, 170.15, 170.25, 170.30,
5 170.40, 170.65 and 170.70 relating to forgery; sections 175.10, 175.25,
6 175.35, 175.40 and 210.40 relating to false statements; sections 176.15,
7 176.20, 176.25 and 176.30 relating to insurance fraud; sections 178.20
8 [and], 178.25, AND 178.30 relating to criminal diversion of prescription
9 medications and prescriptions; SECTIONS 178.40, 178.45, 178.50 AND
10 178.55 RELATING TO CRIMINAL POSSESSION OF CRIMINALLY DIVERTED
11 PRESCRIPTION MEDICATIONS AND DEVICES; sections 180.03, 180.08, 180.15,
12 180.25, 180.40, 180.45, 200.00, 200.03, 200.04, 200.10, 200.11, 200.12,
13 200.20, 200.22, 200.25, 200.27, 215.00, 215.05 and 215.19 relating to
14 bribery; sections 187.10, 187.15, 187.20 and 187.25 relating to residen-
15 tial mortgage fraud, sections 190.40 and 190.42 relating to criminal
16 usury; section 190.65 relating to schemes to defraud; sections 205.60
17 and 205.65 relating to hindering prosecution; sections 210.10, 210.15,
18 and 215.51 relating to perjury and contempt; section 215.40 relating to
19 tampering with physical evidence; sections 220.06, 220.09, 220.16,
20 220.18, 220.21, 220.31, 220.34, 220.39, 220.41, 220.43, 220.46, 220.55
21 and 220.60 relating to controlled substances; sections 225.10 and 225.20
22 relating to gambling; sections 230.25, 230.30, and 230.32 relating to
23 promoting prostitution; section 230.34 relating to sex trafficking;
24 sections 235.06, 235.07, 235.21 and 235.22 relating to obscenity;
25 sections 263.10 and 263.15 relating to promoting a sexual performance by
26 a child; sections 265.02, 265.03, 265.04, 265.11, 265.12, 265.13 and the
27 provisions of section 265.10 which constitute a felony relating to
28 firearms and other dangerous weapons; and sections 265.14 and 265.16
29 relating to criminal sale of a firearm; and section 275.10, 275.20,
30 275.30, or 275.40 relating to unauthorized recordings; and sections
31 470.05, 470.10, 470.15 and 470.20 relating to money laundering; or
32 S 15. Paragraphs (b) and (c) of subdivision 8 of section 700.05 of the
33 criminal procedure law, paragraph (b) as amended by chapter 472 of the
34 laws of 2008 and paragraph (c) as amended by chapter 394 of the laws of
35 2005, are amended to read as follows:
36 (b) Any of the following felonies: assault in the second degree as
37 defined in section 120.05 of the penal law, assault in the first degree
38 as defined in section 120.10 of the penal law, reckless endangerment in
39 the first degree as defined in section 120.25 of the penal law, promot-
40 ing a suicide attempt as defined in section 120.30 of the penal law,
41 criminally negligent homicide as defined in section 125.10 of the penal
42 law, manslaughter in the second degree as defined in section 125.15 of
43 the penal law, manslaughter in the first degree as defined in section
44 125.20 of the penal law, murder in the second degree as defined in
45 section 125.25 of the penal law, murder in the first degree as defined
46 in section 125.27 of the penal law, abortion in the second degree as
47 defined in section 125.40 of the penal law, abortion in the first degree
48 as defined in section 125.45 of the penal law, rape in the third degree
49 as defined in section 130.25 of the penal law, rape in the second degree
50 as defined in section 130.30 of the penal law, rape in the first degree
51 as defined in section 130.35 of the penal law, criminal sexual act in
52 the third degree as defined in section 130.40 of the penal law, criminal
53 sexual act in the second degree as defined in section 130.45 of the
54 penal law, criminal sexual act in the first degree as defined in section
55 130.50 of the penal law, sexual abuse in the first degree as defined in
56 section 130.65 of the penal law, unlawful imprisonment in the first

1 degree as defined in section 135.10 of the penal law, kidnapping in the
2 second degree as defined in section 135.20 of the penal law, kidnapping
3 in the first degree as defined in section 135.25 of the penal law, labor
4 trafficking as defined in section 135.35 of the penal law, custodial
5 interference in the first degree as defined in section 135.50 of the
6 penal law, coercion in the first degree as defined in section 135.65 of
7 the penal law, criminal trespass in the first degree as defined in
8 section 140.17 of the penal law, burglary in the third degree as defined
9 in section 140.20 of the penal law, burglary in the second degree as
10 defined in section 140.25 of the penal law, burglary in the first degree
11 as defined in section 140.30 of the penal law, criminal mischief in the
12 third degree as defined in section 145.05 of the penal law, criminal
13 mischief in the second degree as defined in section 145.10 of the penal
14 law, criminal mischief in the first degree as defined in section 145.12
15 of the penal law, criminal tampering in the first degree as defined in
16 section 145.20 of the penal law, arson in the fourth degree as defined
17 in section 150.05 of the penal law, arson in the third degree as defined
18 in section 150.10 of the penal law, arson in the second degree as
19 defined in section 150.15 of the penal law, arson in the first degree as
20 defined in section 150.20 of the penal law, grand larceny in the fourth
21 degree as defined in section 155.30 of the penal law, grand larceny in
22 the third degree as defined in section 155.35 of the penal law, grand
23 larceny in the second degree as defined in section 155.40 of the penal
24 law, grand larceny in the first degree as defined in section 155.42 of
25 the penal law, health care fraud in the fourth degree as defined in
26 section 177.10 of the penal law, health care fraud in the third degree
27 as defined in section 177.15 of the penal law, health care fraud in the
28 second degree as defined in section 177.20 of the penal law, health care
29 fraud in the first degree as defined in section 177.25 of the penal law,
30 robbery in the third degree as defined in section 160.05 of the penal
31 law, robbery in the second degree as defined in section 160.10 of the
32 penal law, robbery in the first degree as defined in section 160.15 of
33 the penal law, unlawful use of secret scientific material as defined in
34 section 165.07 of the penal law, criminal possession of stolen property
35 in the fourth degree as defined in section 165.45 of the penal law,
36 criminal possession of stolen property in the third degree as defined in
37 section 165.50 of the penal law, criminal possession of stolen property
38 in the second degree as defined by section 165.52 of the penal law,
39 criminal possession of stolen property in the first degree as defined by
40 section 165.54 of the penal law, trademark counterfeiting in the second
41 degree as defined in section 165.72 of the penal law, trademark counter-
42 feiting in the first degree as defined in section 165.73 of the penal
43 law, forgery in the second degree as defined in section 170.10 of the
44 penal law, forgery in the first degree as defined in section 170.15 of
45 the penal law, criminal possession of a forged instrument in the second
46 degree as defined in section 170.25 of the penal law, criminal
47 possession of a forged instrument in the first degree as defined in
48 section 170.30 of the penal law, criminal possession of forgery devices
49 as defined in section 170.40 of the penal law, falsifying business
50 records in the first degree as defined in section 175.10 of the penal
51 law, tampering with public records in the first degree as defined in
52 section 175.25 of the penal law, offering a false instrument for filing
53 in the first degree as defined in section 175.35 of the penal law, issu-
54 ing a false certificate as defined in section 175.40 of the penal law,
55 CRIMINAL DIVERSION OF PRESCRIPTION MEDICATIONS AND PRESCRIPTIONS IN THE
56 FOURTH DEGREE AS DEFINED IN SECTION 178.15 OF THE PENAL LAW, criminal

1 diversion of prescription medications and prescriptions in the [second]
2 THIRD degree as defined in section 178.20 of the penal law, criminal
3 diversion of prescription medications and prescriptions in the [first]
4 SECOND degree as defined in section 178.25 of the penal law, CRIMINAL
5 DIVERSION OF PRESCRIPTION MEDICATIONS AND PRESCRIPTIONS IN THE FIRST
6 DEGREE AS DEFINED IN SECTION 178.30 OF THE PENAL LAW, CRIMINAL
7 POSSESSION OF CRIMINALLY DIVERTED PRESCRIPTION MEDICATIONS AND DEVICES
8 IN THE FOURTH DEGREE AS DEFINED IN SECTION 178.40 OF THE PENAL LAW,
9 CRIMINAL POSSESSION OF CRIMINALLY DIVERTED PRESCRIPTION MEDICATIONS AND
10 DEVICES IN THE THIRD DEGREE AS DEFINED IN SECTION 178.45 OF THE PENAL
11 LAW, CRIMINAL POSSESSION OF CRIMINALLY DIVERTED PRESCRIPTION MEDICATIONS
12 AND DEVICES IN THE SECOND DEGREE AS DEFINED IN SECTION 178.50 OF THE
13 PENAL LAW, CRIMINAL POSSESSION OF CRIMINALLY DIVERTED PRESCRIPTION MEDI-
14 CATIONS AND DEVICES IN THE FIRST DEGREE AS DEFINED IN SECTION 178.55 OF
15 THE PENAL LAW, residential mortgage fraud in the fourth degree as
16 defined in section 187.10 of the penal law, residential mortgage fraud
17 in the third degree as defined in section 187.15 of the penal law, resi-
18 dential mortgage fraud in the second degree as defined in section 187.20
19 of the penal law, residential mortgage fraud in the first degree as
20 defined in section 187.25 of the penal law, escape in the second degree
21 as defined in section 205.10 of the penal law, escape in the first
22 degree as defined in section 205.15 of the penal law, absconding from
23 temporary release in the first degree as defined in section 205.17 of
24 the penal law, promoting prison contraband in the first degree as
25 defined in section 205.25 of the penal law, hindering prosecution in the
26 second degree as defined in section 205.60 of the penal law, hindering
27 prosecution in the first degree as defined in section 205.65 of the
28 penal law, sex trafficking as defined in section 230.34 of the penal
29 law, criminal possession of a weapon in the third degree as defined in
30 subdivisions two, three and five of section 265.02 of the penal law,
31 criminal possession of a weapon in the second degree as defined in
32 section 265.03 of the penal law, criminal possession of a weapon in the
33 first degree as defined in section 265.04 of the penal law, manufacture,
34 transport, disposition and defacement of weapons and dangerous instru-
35 ments and appliances defined as felonies in subdivisions one, two, and
36 three of section 265.10 of the penal law, sections 265.11, 265.12 and
37 265.13 of the penal law, or prohibited use of weapons as defined in
38 subdivision two of section 265.35 of the penal law, relating to firearms
39 and other dangerous weapons, or failure to disclose the origin of a
40 recording in the first degree as defined in section 275.40 of the penal
41 law;

42 (c) Criminal DIVERSION OF PRESCRIPTION MEDICATIONS AND PRESCRIPTIONS
43 IN THE FIFTH DEGREE AS DEFINED IN SECTION 178.10 OF THE PENAL LAW, CRIM-
44 INAL POSSESSION OF CRIMINALLY DIVERTED PRESCRIPTION MEDICATIONS AND
45 DEVICES IN THE FIFTH DEGREE AS DEFINED IN SECTION 178.35 OF THE PENAL
46 LAW, CRIMINAL possession of a controlled substance in the seventh degree
47 as defined in section 220.03 of the penal law, criminal possession of a
48 controlled substance in the fifth degree as defined in section 220.06 of
49 the penal law, criminal possession of a controlled substance in the
50 fourth degree as defined in section 220.09 of the penal law, criminal
51 possession of a controlled substance in the third degree as defined in
52 section 220.16 of the penal law, criminal possession of a controlled
53 substance in the second degree as defined in section 220.18 of the penal
54 law, criminal possession of a controlled substance in the first degree
55 as defined in section 220.21 of the penal law, criminal sale of a
56 controlled substance in the fifth degree as defined in section 220.31 of

1 the penal law, criminal sale of a controlled substance in the fourth
2 degree as defined in section 220.34 of the penal law, criminal sale of a
3 controlled substance in the third degree as defined in section 220.39 of
4 the penal law, criminal sale of a controlled substance in the second
5 degree as defined in section 220.41 of the penal law, criminal sale of a
6 controlled substance in the first degree as defined in section 220.43 of
7 the penal law, criminally possessing a hypodermic instrument as defined
8 in section 220.45 of the penal law, criminal possession of methampheta-
9 mine manufacturing material in the second degree as defined in section
10 220.70 of the penal law, criminal possession of methamphetamine manufac-
11 turing material in the first degree as defined in section 220.71 of the
12 penal law, criminal possession of precursors of methamphetamine as
13 defined in section 220.72 of the penal law, unlawful manufacture of
14 methamphetamine in the third degree as defined in section 220.73 of the
15 penal law, unlawful manufacture of methamphetamine in the second degree
16 as defined in section 220.74 of the penal law, unlawful manufacture of
17 methamphetamine in the first degree as defined in section 220.75 of the
18 penal law, unlawful disposal of methamphetamine laboratory material as
19 defined in section 220.76 of the penal law, criminal possession of mari-
20 huana in the first degree as defined in section 221.30 of the penal law,
21 criminal sale of marihuana in the first degree as defined in section
22 221.55 of the penal law, promoting gambling in the second degree as
23 defined in section 225.05 of the penal law, promoting gambling in the
24 first degree as defined in section 225.10 of the penal law, possession
25 of gambling records in the second degree as defined in section 225.15 of
26 the penal law, possession of gambling records in the first degree as
27 defined in section 225.20 of the penal law, and possession of a gambling
28 device as defined in section 225.30 of the penal law;
29 S 16. This act shall take effect on the first of November next
30 succeeding the date on which it shall have become a law.