

7963

2009-2010 Regular Sessions

I N A S S E M B L Y

April 29, 2009

Introduced by M. of A. AUBRY -- (at request of the Office of Court Administration) -- read once and referred to the Committee on Codes

AN ACT to amend the penal law, in relation to a change in calculating sentences that involve class A drug offenses

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

1 Section 1. Subparagraph (i) of paragraph (e) of subdivision 1 of
2 section 70.30 of the penal law, as amended by chapter 3 of the laws of
3 1995, is amended to read as follows:
4 (i) Except as provided in subparagraph (ii), (iii), (iv), (v), (vi) or
5 (vii) of this paragraph, the aggregate maximum term of consecutive
6 sentences, all of which are indeterminate sentences or all of which are
7 determinate sentences, imposed for two or more crimes, other than two or
8 more crimes that include a class A felony HAVING A MAXIMUM TERM OF LIFE
9 IMPRISONMENT, committed prior to the time the person was imprisoned
10 under any of such sentences shall, if it exceeds twenty years, be deemed
11 to be twenty years, unless one of the sentences was imposed for a class
12 B felony, in which case the aggregate maximum term shall, if it exceeds
13 thirty years, be deemed to be thirty years. Where the aggregate maximum
14 term of two or more indeterminate consecutive sentences is reduced by
15 calculation made pursuant to this paragraph, the aggregate minimum peri-
16 od of imprisonment, if it exceeds one-half of the aggregate maximum term
17 as so reduced, shall be deemed to be one-half of the aggregate maximum
18 term as so reduced;
19 S 2. Subparagraph (ii) of paragraph (e) of subdivision 1 of section
20 70.30 of the penal law, as amended by chapter 3 of the laws of 1995, is
21 amended to read as follows:
22 (ii) Where the aggregate maximum term of two or more consecutive
23 sentences, one or more of which is a determinate sentence and one or
24 more of which is an indeterminate sentence, imposed for two or more
25 crimes, other than two or more crimes that include a class A felony

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

LBD10109-01-9

1 HAVING A MAXIMUM TERM OF LIFE IMPRISONMENT, committed prior to the time
2 the person was imprisoned under any of such sentences, exceeds twenty
3 years, and none of the sentences was imposed for a class B felony, the
4 following rules shall apply:

5 (A) if the aggregate maximum term of the determinate sentence or
6 sentences exceeds twenty years, the defendant shall be deemed to be
7 serving [to] a determinate sentence of twenty years.

8 (B) if the aggregate maximum term of the determinate sentence or
9 sentences is less than twenty years, the defendant shall be deemed to be
10 serving an indeterminate sentence the maximum term of which shall be
11 deemed to be twenty years. In such instances, the minimum sentence shall
12 be deemed to be ten years or six-sevenths of the term or aggregate maxi-
13 mum term of the determinate sentence or sentences, whichever is greater.

14 S 3. Subparagraph (iii) of paragraph (e) of subdivision 1 of section
15 70.30 of the penal law, as amended by chapter 3 of the laws of 1995, is
16 amended to read as follows:

17 (iii) Where the aggregate maximum term of two or more consecutive
18 sentences, one or more of which is a determinate sentence and one or
19 more of which is an indeterminate sentence, imposed for two or more
20 crimes, other than two or more crimes that include a class A felony
21 HAVING A MAXIMUM TERM OF LIFE IMPRISONMENT, [commmited] COMMITTED prior
22 to the time the person was imprisoned under any of such sentences,
23 exceeds thirty years, and one of the sentences was imposed for a class B
24 felony, the following rules shall apply:

25 (A) if the aggregate maximum term of the determinate sentence or
26 sentences exceeds thirty years, the defendant shall be deemed to be
27 serving a determinate sentence of thirty years;

28 (B) if the aggregate maximum term of the determinate sentence or
29 sentences is less than thirty years, the defendant shall be deemed to be
30 serving an indeterminate sentence the maximum term of which shall be
31 deemed to be thirty years. In such instances, the minimum sentence shall
32 be deemed to be fifteen years or six-sevenths of the term or aggregate
33 maximum term of the determinate sentence or sentences, whichever is
34 greater.

35 S 4. This act shall take effect on the first of November next succeed-
36 ing the date on which it shall have become a law, and shall apply to all
37 sentences imposed on or after such effective date; provided, however,
38 that the amendments made to paragraph (e) of subdivision 1 of section
39 70.30 of the penal law by sections one, two and three of this act shall
40 not affect the expiration of such paragraph and shall be deemed to
41 expire therewith.