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

8603

2009-2010 Regular Sessions

I N A S S E M B L Y

May 29, 2009

Introduced by M. of A. BALL, TOWNSEND, HAYES, ALFANO, TEDISCO -- Multi-Sponsored by -- M. of A. AMEDORE, BACALLES, BARCLAY, BARRA, BURLING, CONTE, CORWIN, CROUCH, ERRIGO, FINCH, FITZPATRICK, GIGLIO, McDONOUGH, MILLER, OAKS, O'MARA, QUINN, RABBITT, RAIA, SALADINO, SAYWARD, SCOZZAFAVA, THIELE, TOBACCO, WALKER -- read once and referred to the Committee on Codes

AN ACT to amend the penal law, in relation to requiring lifetime post-release supervision for certain persons convicted of violent felony offenses; and to amend the correction law, in relation to prohibiting good behavior allowances against certain determinate sentences

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

Section 1. Paragraphs (d), (f), (g) and (i) of subdivision 2-a of section 70.45 of the penal law, as added by chapter 7 of the laws of 2007, are amended to read as follows:

(d) not less than three years nor more than ten years whenever a determinate sentence is imposed pursuant to subdivision three of section 70.02 of this article upon a conviction of a class D or class E violent felony sex offense as defined in paragraph (b) of subdivision one of section 70.80 of this article; PROVIDED, HOWEVER, THAT WHEN THE CONVICTION WAS FOR THE COMMISSION OF SEXUAL ABUSE IN THE FIRST DEGREE AS DEFINED IN SECTION 130.65 WHEN THE VICTIM WAS LESS THAN ELEVEN YEARS OF AGE OR COURSE OF SEXUAL CONDUCT AGAINST A CHILD IN THE SECOND DEGREE AS DEFINED IN SECTION 130.80 OF THIS CHAPTER, THE PERIOD OF POST-RELEASE SUPERVISION SHALL BE FOR LIFE;

(f) not less than five years nor more than twenty years whenever a determinate sentence is imposed pursuant to subdivision three of section 70.02 of this article upon a conviction of a class B violent felony sex offense as defined in section 70.80 of this article; PROVIDED, HOWEVER, THAT WHEN THE CONVICTION WAS FOR THE COMMISSION OF RAPE IN THE FIRST DEGREE AS DEFINED IN SECTION 130.35, CRIMINAL SEXUAL ACT IN THE FIRST

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

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DEGREE AS DEFINED IN SECTION 130.50, AGGRAVATED SEXUAL ABUSE IN THE FIRST DEGREE AS DEFINED IN SECTION 130.70 OR COURSE OF SEXUAL CONDUCT AGAINST A CHILD IN THE FIRST DEGREE AS DEFINED IN SECTION 130.75 OF THIS CHAPTER, THE PERIOD OF POST-RELEASE SUPERVISION SHALL BE FOR LIFE;

(g) not less than five years nor more than fifteen years whenever a determinate sentence of imprisonment is imposed pursuant to either section 70.04, section 70.06, or subdivision five of section 70.80 of this article upon a conviction of a class D or class E violent or non-violent felony sex offense as defined in section 70.80 of this article; PROVIDED, HOWEVER, THAT WHEN THE CONVICTION WAS FOR THE COMMISSION OF SEXUAL ABUSE IN THE FIRST DEGREE AS DEFINED IN SECTION 130.65 WHEN THE VICTIM WAS LESS THAN ELEVEN YEARS OF AGE OR COURSE OF SEXUAL CONDUCT AGAINST A CHILD IN THE SECOND DEGREE AS DEFINED IN SECTION 130.80 OF THIS CHAPTER, THE PERIOD OF POST-RELEASE SUPERVISION SHALL BE FOR LIFE;

(i) such period shall be not less than ten years nor more than twenty-five years whenever a determinate sentence of imprisonment is imposed pursuant to either section 70.04, section 70.06, or subdivision five of section 70.80 of this article upon a conviction of a class B violent or non-violent felony sex offense as defined in section 70.80 of this article; PROVIDED, HOWEVER, THAT WHEN THE CONVICTION WAS FOR THE COMMISSION OF RAPE IN THE FIRST DEGREE AS DEFINED IN SECTION 130.35, CRIMINAL SEXUAL ACT IN THE FIRST DEGREE AS DEFINED IN SECTION 130.50, AGGRAVATED SEXUAL ABUSE IN THE FIRST DEGREE AS DEFINED IN SECTION 130.70 OR COURSE OF SEXUAL CONDUCT AGAINST A CHILD IN THE FIRST DEGREE AS DEFINED IN SECTION 130.75 OF THIS CHAPTER, THE PERIOD OF POST-RELEASE SUPERVISION SHALL BE FOR LIFE; and

S 2. Section 803 of the correction law is amended by adding a new subdivision 1-b to read as follows:

1-B. A PERSON SERVING A DETERMINATE SENTENCE WHO IS SUBJECT TO THE PERIOD OF POST-RELEASE SUPERVISION ESTABLISHED IN PARAGRAPH (D), (F), (G) OR (I) OF SUBDIVISION TWO-A OF SECTION 70.45 OF THE PENAL LAW SHALL NOT BE ENTITLED TO ANY GOOD BEHAVIOR ALLOWANCE ESTABLISHED IN THIS SECTION.

S 3. This act shall take effect on the first of November next succeeding the date on which it shall have become a law; provided however that the amendments to section 803 of the correction law made by section two of this act shall survive the expiration and reversion of such section as provided in subdivision d of section 74 of chapter 3 of the laws of 1995, as amended.