

2009-2010 Regular Sessions

I N S E N A T E

(PREFILED)

January 7, 2009

Introduced by Sen. SAMPSON -- read twice and ordered printed, and when printed to be committed to the Committee on Finance

AN ACT to amend the executive law, in relation to requiring all felony and misdemeanor convicts, including youthful offenders, be designated offenders for DNA submission

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

1 Section 1. Subdivision 7 of section 995 of the executive law, as  
2 amended by chapter 2 of the laws of 2006, paragraph (a) as separately  
3 amended by chapter 320 of the laws of 2006, is amended to read as  
4 follows:

5 7. "Designated offender" means a person convicted of and sentenced for  
6 [any one or more of the following provisions of the penal law (a)  
7 sections 120.05, 120.10, and 120.11, relating to assault; sections  
8 125.15 through 125.27 relating to homicide; sections 130.25, 130.30,  
9 130.35, 130.40, 130.45, 130.50, 130.65, 130.67 and 130.70, relating to  
10 sex offenses; sections 205.10, 205.15, 205.17 and 205.19, relating to  
11 escape and other offenses, where the offender has been convicted within  
12 the previous five years of one of the other felonies specified in this  
13 subdivision; or sections 255.25, 255.26 and 255.27, relating to incest,  
14 a violent felony offense as defined in subdivision one of section 70.02  
15 of the penal law, attempted murder in the first degree, as defined in  
16 section 110.00 and section 125.27 of the penal law, kidnapping in the  
17 first degree, as defined in section 135.25 of the penal law, arson in  
18 the first degree, as defined in section 150.20 of the penal law,  
19 burglary in the third degree, as defined in section 140.20 of the penal  
20 law, attempted burglary in the third degree, as defined in section  
21 110.00 and section 140.20 of the penal law, a felony defined in article  
22 four hundred ninety of the penal law relating to terrorism or any  
23 attempt to commit an offense defined in such article relating to terror-

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

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1 ism which is a felony; or (b) criminal possession of a controlled  
2 substance in the first degree, as defined in section 220.21 of the penal  
3 law; criminal possession of a controlled substance in the second degree,  
4 as defined in section 220.18 of the penal law; criminal sale of a  
5 controlled substance, as defined in article 220 of the penal law; or  
6 grand larceny in the fourth degree, as defined in subdivision five of  
7 section 155.30 of the penal law; or (c) any misdemeanor or felony  
8 defined as a sex offense or sexually violent offense pursuant to para-  
9 graph (a), (b) or (c) of subdivision two or paragraph (a) of subdivision  
10 three of section one hundred sixty-eight-a of the correction law; or (d)  
11 any of the following felonies, or an attempt thereof where such attempt  
12 is a felony offense:

13 aggravated assault upon a person less than eleven years old, as  
14 defined in section 120.12 of the penal law; menacing in the first  
15 degree, as defined in section 120.13 of the penal law; reckless endan-  
16 germent in the first degree, as defined in section 120.25 of the penal  
17 law; stalking in the second degree, as defined in section 120.55 of the  
18 penal law; criminally negligent homicide, as defined in section 125.10  
19 of the penal law; vehicular manslaughter in the second degree, as  
20 defined in section 125.12 of the penal law; vehicular manslaughter in  
21 the first degree, as defined in section 125.13 of the penal law;  
22 persistent sexual abuse, as defined in section 130.53 of the penal law;  
23 aggravated sexual abuse in the fourth degree, as defined in section  
24 130.65-a of the penal law; female genital mutilation, as defined in  
25 section 130.85 of the penal law; facilitating a sex offense with a  
26 controlled substance, as defined in section 130.90 of the penal law;  
27 unlawful imprisonment in the first degree, as defined in section 135.10  
28 of the penal law; custodial interference in the first degree, as defined  
29 in section 135.50 of the penal law; criminal trespass in the first  
30 degree, as defined in section 140.17 of the penal law; criminal tamper-  
31 ing in the first degree, as defined in section 145.20 of the penal law;  
32 tampering with a consumer product in the first degree, as defined in  
33 section 145.45 of the penal law; robbery in the third degree as defined  
34 in section 160.05 of the penal law; identity theft in the second degree,  
35 as defined in section 190.79 of the penal law; identity theft in the  
36 first degree, as defined in section 190.80 of the penal law; promoting  
37 prison contraband in the first degree, as defined in section 205.25 of  
38 the penal law; tampering with a witness in the third degree, as defined  
39 in section 215.11 of the penal law; tampering with a witness in the  
40 second degree, as defined in section 215.12 of the penal law; tampering  
41 with a witness in the first degree, as defined in section 215.13 of the  
42 penal law; criminal contempt in the first degree, as defined in subdivi-  
43 sions (b), (c) and (d) of section 215.51 of the penal law; aggravated  
44 criminal contempt, as defined in section 215.52 of the penal law; bail  
45 jumping in the second degree, as defined in section 215.56 of the penal  
46 law; bail jumping in the first degree, as defined in section 215.57 of  
47 the penal law; patronizing a prostitute in the second degree, as defined  
48 in section 230.05 of the penal law; patronizing a prostitute in the  
49 first degree, as defined in section 230.06 of the penal law; promoting  
50 prostitution in the second degree, as defined in section 230.30 of the  
51 penal law; promoting prostitution in the first degree, as defined in  
52 section 230.32 of the penal law; compelling prostitution, as defined in  
53 section 230.33 of the penal law; disseminating indecent materials to  
54 minors in the second degree, as defined in section 235.21 of the penal  
55 law; disseminating indecent materials to minors in the first degree, as  
56 defined in section 235.22 of the penal law; riot in the first degree, as

1 defined in section 240.06 of the penal law; criminal anarchy, as defined  
2 in section 240.15 of the penal law; aggravated harassment of an employee  
3 by an inmate, as defined in section 240.32 of the penal law; unlawful  
4 surveillance in the second degree, as defined in section 250.45 of the  
5 penal law; unlawful surveillance in the first degree, as defined in  
6 section 250.50 of the penal law; endangering the welfare of a vulnerable  
7 elderly person in the second degree, as defined in section 260.32 of the  
8 penal law; endangering the welfare of a vulnerable elderly person in the  
9 first degree, as defined in section 260.34 of the penal law; use of a  
10 child in a sexual performance, as defined in section 263.05 of the penal  
11 law; promoting an obscene sexual performance by a child, as defined in  
12 section 263.10 of the penal law; possessing an obscene sexual perform-  
13 ance by a child, as defined in section 263.11 of the penal law; promot-  
14 ing a sexual performance by a child, as defined in section 263.15 of the  
15 penal law; possessing a sexual performance by a child, as defined in  
16 section 263.16 of the penal law; criminal possession of a weapon in the  
17 third degree, as defined in section 265.02 of the penal law; criminal  
18 sale of a firearm in the third degree, as defined in section 265.11 of  
19 the penal law; criminal sale of a firearm to a minor, as defined in  
20 section 265.16 of the penal law; unlawful wearing of a body vest, as  
21 defined in section 270.20 of the penal law; hate crimes as defined in  
22 section 485.05 of the penal law; and crime of terrorism, as defined in  
23 section 490.25 of the penal law] (A) A MISDEMEANOR DEFINED IN THE PENAL  
24 LAW OR A FELONY DEFINED IN THE PENAL LAW OR A PERSON ADJUDICATED A  
25 YOUTHFUL OFFENDER PURSUANT TO ARTICLE SEVEN HUNDRED TWENTY OF THE CRIMI-  
26 NAL PROCEDURE LAW FOR ANY SUCH MISDEMEANOR OR FELONY; or [(e)] (B) a  
27 felony defined in the penal law or an attempt thereof where such attempt  
28 is a felony; or [(f)] (C) any of the following misdemeanors: assault in  
29 the third degree as defined in section 120.00 of the penal law;  
30 attempted aggravated assault upon a person less than eleven years old,  
31 as defined in section 110.00 and section 120.12 of the penal law;  
32 attempted menacing in the first degree, as defined in section 110.00 and  
33 section 120.13 of the penal law; menacing in the second degree as  
34 defined in section 120.14 of the penal law; menacing in the third degree  
35 as defined in section 120.15 of the penal law; reckless endangerment in  
36 the second degree as defined in section 120.20 of the penal law; stalk-  
37 ing in the fourth degree as defined in section 120.45 of the penal law;  
38 stalking in the third degree as defined in section 120.50 of the penal  
39 law; attempted stalking in the second degree, as defined in section  
40 110.00 and section 120.55 of the penal law; forcible touching as defined  
41 in section 130.52 of the penal law regardless of the age of the victim;  
42 sexual abuse in the third degree as defined in section 130.55 of the  
43 penal law regardless of the age of the victim; unlawful imprisonment in  
44 the second degree as defined in section 135.05 of the penal law regard-  
45 less of the age of the victim; attempted unlawful imprisonment in the  
46 first degree, as defined in section 110.00 and section 135.10 of the  
47 penal law regardless of the age of the victim; criminal trespass in the  
48 second degree as defined in section 140.15 of the penal law; possession  
49 of burglar's tools as defined in section 140.35 of the penal law; petit  
50 larceny as defined in section 155.25 of the penal law; endangering the  
51 welfare of a child as defined in section 260.10 of the penal law; endan-  
52 gering the welfare of an incompetent or physically disabled person as  
53 defined in section 260.25.

54 S 2. This act shall take effect on the first of November next succeed-  
55 ing the date on which it shall have become a law.