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

1270

2009-2010 Regular Sessions

I N S E N A T E

January 28, 2009

Introduced by Sens. MONTGOMERY, BRESLIN, DILAN, DUANE, HASSELL-THOMPSON, KRUEGER, SCHNEIDERMAN, THOMPSON -- read twice and ordered printed, and when printed to be committed to the Committee on Crime Victims, Crime and Correction

AN ACT to amend the executive law, the criminal procedure law and the penal law, in relation to establishing substance abuse treatment alternatives for certain offenders

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

Section 1. The executive law is amended by adding a new section 249-a to read as follows:

S 249-A. SUBSTANCE ABUSE TREATMENT ALTERNATIVE PROGRAMS FOR CERTAIN OFFENDERS. 1. THE DIRECTOR SHALL ENTER INTO AGREEMENTS WITH RESIDENTIAL SUBSTANCE ABUSE TREATMENT PROGRAMS TO PROVIDE FOR THE CARE AND TREATMENT OF ELIGIBLE OFFENDERS SENTENCED PURSUANT TO SECTION 60.14 OF THE PENAL LAW.

2. SUCH PROGRAMS SHALL BE LICENSED BY THE OFFICE OF ALCOHOLISM AND SUBSTANCE ABUSE SERVICES AND SHALL BE APPROVED BY THE DIVISION OF PROBATION AND CORRECTIONAL ALTERNATIVES.

3. UPON THE SATISFACTORY COMPLETION OF THE COURSE OF TREATMENT, THE ELIGIBLE OFFENDER SHALL HAVE THE COURT IMPOSED SENTENCE OF CONDITIONAL DISCHARGE TERMINATED IN ACCORDANCE WITH THE PROVISIONS OF SECTION 410.90 OF THE CRIMINAL PROCEDURE LAW.

S 2. Paragraph (a) of subdivision 3 of section 390.30 of the criminal procedure law, as added by chapter 14 of the laws of 1985, is amended to read as follows:

(a) The report of the pre-sentence investigation must contain an analysis of as much of the information gathered in the investigation as the agency that conducted the investigation deems relevant to the question of sentence. WHERE APPROPRIATE, THE REPORT SHALL INCLUDE A TREATMENT PLAN INCLUDING BUT NOT LIMITED TO A LISTING OF AVAILABLE LICENSED

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

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SUBSTANCE ABUSE PROGRAMS TO PROVIDE FOR THE CARE AND TREATMENT OF OFFENDERS SENTENCED IN ACCORDANCE WITH THE PROVISIONS OF SUBDIVISION ONE OF SECTION 60.14 OF THE PENAL LAW. The report must also include any other [imformation] INFORMATION that the court directs to be included and the material required by paragraph (b) of this subdivision which shall be considered part of the report.

S 3. The penal law is amended by adding a new section 60.14 to read as follows:

S 60.14 AUTHORIZED DEPOSITIONS; CRIMINAL POSSESSION OF A CONTROLLED SUBSTANCE.

1. THE SENTENCE OF ANY PERSON CONVICTED OF A VIOLATION OF SECTION 220.03 OF THIS CHAPTER, CRIMINAL POSSESSION OF A CONTROLLED SUBSTANCE IN THE SEVENTH DEGREE, SECTION 220.06 OF THIS CHAPTER, CRIMINAL POSSESSION OF A CONTROLLED SUBSTANCE IN THE FIFTH DEGREE, OR SECTION 221.20 OF THIS CHAPTER, CRIMINAL POSSESSION OF MARIHUANA IN THE THIRD DEGREE, FOR EITHER THE FIRST OR SECOND TIME WHO HAS NO PRIOR CONVICTION FOR ANY OF THE OTHER PROVISIONS OF ARTICLE TWO HUNDRED TWENTY OF THIS CHAPTER AND ALSO HAS NO PRIOR VIOLENT FELONY CONVICTION SHALL BE CONDITIONALLY DISCHARGED PROVIDED SUCH PERSON AGREES TO ATTEND, AND SUCCESSFULLY COMPLETES AN ALTERNATIVE PROGRAM OF SUBSTANCE ABUSE TREATMENT APPROVED IN ACCORDANCE WITH SECTION TWO HUNDRED FORTY-NINE-A OF THE EXECUTIVE LAW.

2. THE COURT SHALL IMPOSE SUCH A SENTENCE ON THE CONDITION THAT THE OFFENDER PARTICIPATE IN A SUBSTANCE ABUSE TREATMENT ALTERNATIVE PROGRAM FOR A SPECIFIED PERIOD OF TIME AS DETERMINED BY THE COURT.

3. UPON COMPLETION OF A COURSE OF TREATMENT, THE COURT SHALL TERMINATE THE SENTENCE IN ACCORDANCE WITH THE PROVISIONS OF SECTION 410.90 OF THE CRIMINAL PROCEDURE LAW. IF THE COURT DETERMINES THAT THE OFFENDER ABSCONDED FROM THE SUBSTANCE ABUSE TREATMENT ALTERNATIVE PROGRAM OR THAT THE SENTENCE IS NO LONGER SUITABLE BECAUSE IT ENDANGERS THE SAFETY, SECURITY OR ORDER OF SUCH TREATMENT FACILITY OR THAT THE OFFENDER OTHERWISE VIOLATES THE TERMS AND CONDITIONS OF THE SENTENCE, THE SENTENCE MAY BE REVOKED. UPON REVOCATION, THE OFFENDER SHALL BE SENTENCED IN ACCORDANCE WITH THE OTHER PROVISIONS OF THIS CHAPTER APPLICABLE TO PERSONS CONVICTED OF CRIMINAL POSSESSION OF A CONTROLLED SUBSTANCE OR CRIMINAL POSSESSION OF MARIHUANA, AS THE CASE MAY BE.

4. THE COURT SHALL CONDUCT AN ONGOING EVALUATION OF THE PROGRAM. THE COURT SHALL UNDERTAKE STUDIES IN CONJUNCTION WITH THE DIVISION OF PROBATION AND CORRECTIONAL ALTERNATIVES, THE DIVISION OF PAROLE AND THE OFFICE OF ALCOHOLISM AND SUBSTANCE ABUSE SERVICES TO ENSURE THAT THE PROGRAMMATIC OBJECTIVES ARE MET.

S 4. This act shall take effect on the one hundred eightieth day after it shall have become a law.