

2405

2009-2010 Regular Sessions

I N S E N A T E

February 19, 2009

Introduced by Sens. VOLKER, SCHNEIDERMAN -- read twice and ordered printed, and when printed to be committed to the Committee on Codes

AN ACT to amend the criminal procedure law, in relation to a sentence of parole supervision

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

1 Section 1. Subdivision 1 of section 410.91 of the criminal procedure
2 law, as added by chapter 3 of the laws of 1995, is amended to read as
3 follows:
4 1. A sentence of parole supervision is an indeterminate sentence of
5 imprisonment, OR A DETERMINATE SENTENCE OF IMPRISONMENT IMPOSED PURSUANT
6 TO PARAGRAPHS (B) AND (D) OF SUBDIVISION THREE OF SECTION 70.70 OF THE
7 PENAL LAW, which may be imposed upon an eligible defendant, as defined
8 in subdivision two of this section. [Such] IF AN INDETERMINATE SENTENCE,
9 SUCH sentence shall have a minimum term and a maximum term within the
10 ranges specified by subdivisions three and four of section 70.06 of the
11 penal law. IF A DETERMINATE SENTENCE, SUCH SENTENCE SHALL HAVE A TERM
12 WITHIN THE RANGES SPECIFIED BY SUBPARAGRAPHS (III) AND (IV) OF PARAGRAPH
13 (B) OF SUBDIVISION THREE OF SECTION 70.70 OF THE PENAL LAW. Provided,
14 however, if the court directs that the sentence be executed as a
15 sentence of parole supervision, it shall remand the defendant for immediate
16 delivery to a reception center operated by the state department of
17 correctional services, in accordance with section 430.20 of this chapter
18 and SECTION six hundred one of the correction law, for a period not to
19 exceed ten days. An individual who receives such a sentence shall be
20 placed under the immediate supervision of the state division of parole
21 and must comply with the conditions of parole, which shall include an
22 initial placement in a drug treatment campus for a period of ninety days
23 at which time the defendant shall be released therefrom.
24 S 2. Subdivision 3 of section 410.91 of the criminal procedure law, as
25 added by chapter 3 of the laws of 1995, is amended to read as follows:

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

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1 3. When an indeterminate OR DETERMINATE sentence of imprisonment is
2 imposed upon an eligible defendant for a specified offense, as defined
3 in subdivision five of this section, the court may direct that such
4 sentence be executed as a sentence of parole supervision if the court
5 finds (i) that the defendant has a history of controlled substance
6 dependence that is a significant contributing factor to such defendant's
7 criminal conduct; (ii) that such defendant's controlled substance
8 dependence could be appropriately addressed by a sentence of parole
9 supervision; and (iii) that imposition of such a sentence would not have
10 an adverse effect on public safety or public confidence in the integrity
11 of the criminal justice system.

12 S 3. This act shall take effect immediately; provided however that the
13 amendments to subdivisions 1 and 3 of section 410.91 of the criminal
14 procedure law made by sections one and two of this act shall not affect
15 the repeal of such section and shall be deemed to be repealed therewith.