

3975

2009-2010 Regular Sessions

I N S E N A T E

April 7, 2009

Introduced by Sen. OPPENHEIMER -- 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 requiring pre-sentence reports and prohibiting the waiver of a written pre-sentence report in instances of family offenses

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

1 Section 1. The opening paragraph of subdivision 2 of section 390.20 of  
2 the criminal procedure law, as amended by chapter 413 of the laws of  
3 1991, is amended to read as follows:

4 Where a person is convicted of a misdemeanor a pre-sentence report is  
5 not required, [but the] EXCEPT THAT A PRE-SENTENCE REPORT SHALL BE  
6 REQUIRED IN ANY INSTANCE INVOLVING A FAMILY OFFENSE AS PRESCRIBED IN  
7 SUBDIVISION ONE OF SECTION 530.11 OF THIS CHAPTER. THE court may not  
8 pronounce any of the following sentences unless it has ordered a pre-  
9 sentence investigation of the defendant and has received a written  
10 report thereof:

11 S 2. The closing paragraph of paragraph (a) of subdivision 4 of  
12 section 390.20 of the criminal procedure law, as amended by chapter 3 of  
13 the laws of 1995, is amended to read as follows:

14 Provided, however, a pre-sentence investigation of the defendant and a  
15 written report thereon shall not be waived if an indeterminate or deter-  
16 minate sentence of imprisonment is to be imposed. PROVIDED, FURTHER,  
17 THAT A PRE-SENTENCE INVESTIGATION OF THE DEFENDANT AND A WRITTEN REPORT  
18 THEREON SHALL NOT BE WAIVED IN ANY INSTANCE INVOLVING A FAMILY OFFENSE  
19 AS PRESCRIBED IN SUBDIVISION ONE OF SECTION 530.11 OF THIS CHAPTER.

20 S 3. The closing paragraph of paragraph (a) of subdivision 4 of  
21 section 390.20 of the criminal procedure law, as added by chapter 413 of  
22 the laws of 1991, is amended to read as follows:

23 Provided, however, a pre-sentence investigation of the defendant and a  
24 written report thereon shall not be waived if an indeterminate sentence

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

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1 of imprisonment is to be imposed. PROVIDED, FURTHER, THAT A PRE-SEN-  
2 TENCE INVESTIGATION OF THE DEFENDANT AND A WRITTEN REPORT THEREON SHALL  
3 NOT BE WAIVED IN ANY INSTANCE INVOLVING A FAMILY OFFENSE AS PRESCRIBED  
4 IN SUBDIVISION ONE OF SECTION 530.11 OF THIS CHAPTER.

5 S 4. This act shall take effect immediately, provided that the amend-  
6 ment to the closing paragraph of paragraph (a) of subdivision 4 of  
7 section 390.20 of the criminal procedure law made by section two of this  
8 act shall be subject to the expiration and reversion of such closing  
9 paragraph pursuant to subdivision d of section 74 of chapter 3 of the  
10 laws of 1995, as amended, when upon such date the provisions of section  
11 three of this act shall take effect.