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

5740

2009-2010 Regular Sessions

I N S E N A T E

June 2, 2009

Introduced by Sens. MONTGOMERY, HASSELL-THOMPSON, KRUEGER, OPPENHEIMER, PARKER, VOLKER -- 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 correction law, in relation to issues of merit time

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

Section 1. The opening paragraph of subparagraph (vi) of paragraph (d) of subdivision 1 of section 803 of the correction law, as added by section 1 of a chapter of the laws of 2009 amending the correction law relating to merit time allowances, as proposed in legislative bills numbers A.4516-C and S.3438-A, is amended to read as follows:

A person convicted of a homicide offense as defined in article one hundred twenty-five of the penal law, an assault offense defined in article one hundred twenty of the penal law, a robbery offense as defined by article one hundred sixty of the penal law, a kidnapping offense as defined by article one hundred thirty-five of the penal law, an arson offense as defined by article one hundred fifty of the penal law, [a criminal mischief offense as defined by article one hundred forty-five of the penal law,] a burglary offense as defined by article one hundred forty of the penal law, criminal possession of a weapon in the second degree as defined by subdivisions two and three of section 265.03 of the penal law, criminal use of a firearm in the first degree as defined by section 265.09 of the penal law, criminal use of a firearm in the second degree as defined by section 265.08 of the penal law, a conspiracy to commit such crimes as defined in article one hundred five of the penal law, an attempt to commit such crimes as defined in article one hundred ten of the penal law and serving a determinate or indeterminate sentence or sentences and who can demonstrate to the commissioner that: (1) the person is a victim of domestic violence who was subjected to substantial physical, sexual or psychological abuse inflicted by a member of the person's same family or household as that term is defined

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

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in subdivision one of section 530.11 of the criminal procedure law or a member of the person's immediate family as that term is defined in subdivision four of section 120.40 of the penal law; and (2) such offense was committed as a direct result of such abuse, may receive merit time allowance credit in the amount provided for in subparagraph (iii) of this paragraph. The merit time allowance established pursuant to this subparagraph shall be granted in the same manner as required by subparagraph (iv) of this paragraph.

S 2. The opening paragraph of subparagraph (vi) of paragraph (d) of subdivision 1 of section 803 of the correction law, as added by section 2 of a chapter of the laws of 2009 amending the correction law relating to merit time allowances, as proposed in legislative bills numbers A.4516-C and S.3438-A, is amended to read as follows:

A person convicted of a homicide offense as defined in article one hundred twenty-five of the penal law, an assault offense defined in article one hundred twenty of the penal law, a robbery offense as defined by article one hundred sixty of the penal law, a kidnapping offense as defined by article one hundred thirty-five of the penal law, an arson offense as defined by article one hundred fifty of the penal law, [a criminal mischief offense as defined by article one hundred forty-five of the penal law,] a burglary offense as defined by article one hundred forty of the penal law, criminal possession of a weapon in the second degree as defined by subdivisions two and three of section 265.03 of the penal law, criminal use of a firearm in the first degree as defined by section 265.09 of the penal law, criminal use of a firearm in the second degree as defined by section 265.08 of the penal law, a conspiracy to commit such crimes as defined in article one hundred five of the penal law, an attempt to commit such crimes as defined in article one hundred ten of the penal law and serving a determinate or indeterminate sentence or sentences and who can demonstrate to the commissioner that: (1) the person is a victim of domestic violence who was subjected to substantial physical, sexual or psychological abuse inflicted by a member of the person's same family or household as that term is defined in subdivision one of section 530.11 of the criminal procedure law or a member of the person's immediate family as that term is defined in subdivision four of section 120.40 of the penal law; and (2) such offense was committed as a direct result of such abuse, may receive merit time allowance credit in the amount provided for in subparagraph (iii) of this paragraph. The merit time allowance established pursuant to this subparagraph shall be granted in the same manner as required by subparagraph (iv) of this paragraph.

S 3. This act shall take effect on the same date and in the same manner as a chapter of the laws of 2009 amending the correction law relating to merit time allowances, as proposed in legislative bills numbers A.4516-C and S.3438-A, takes effect.