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

3525--A

2009-2010 Regular Sessions

I N A S S E M B L Y

January 27, 2009

Introduced by M. of A. PERRY -- Multi-Sponsored by -- M. of A. COLTON, ESPAILLAT, GALEF, GANTT, HIKIND, HOOPER, JAFFEE, KOON, MAYERSOHN, MENG, PHEFFER, J. RIVERA, ROBINSON, SCHIMMINGER, SWEENEY, TOWNS, WEISENBERG -- read once and referred to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the criminal procedure law, in relation to permitting at the discretion of the court certain family members of a victim who is deceased to read statements in court during the sentencing of a defendant

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

Section 1. Subparagraph 2 of paragraph (a) of subdivision 2 of section 380.50 of the criminal procedure law, as separately amended by chapters 173 and 198 of the laws of 1996, is amended to read as follows:

(2) if such victim is unable or unwilling to express himself or herself before the court or a person so mentally or physically disabled as to make it impracticable to appear in court in person or the victim is deceased, a member of the family of such victim, EXCEPT THAT WHERE SUCH VICTIM IS DECEASED AND SURVIVED BY BOTH A SPOUSE AND A PARENT OR PARENTS, THE COURT IN ITS SOLE DISCRETION MAY ALLOW A SPOUSE OR PARENT OR, UPON CONSULTATION WITH COUNSEL FOR THE DEFENDANT AND THE PEOPLE, ALLOW BOTH TO MAKE A STATEMENT ON BEHALF OF SUCH VICTIM, or the legal guardian or representative of the legal guardian of the victim where such guardian or representative has personal knowledge of and a relationship with the victim, unless the court finds that it would be inappropriate for such person OR PERSONS to make a statement on behalf of the victim. UPON OBJECTION FROM THE DEFENDANT THE COURT SHALL CONDUCT A HEARING TO DETERMINE THE APPROPRIATENESS OF ANY SUCH STATEMENTS.

S 2. This act shall take effect immediately.

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

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