

8532

2009-2010 Regular Sessions

I N A S S E M B L Y

May 27, 2009

Introduced by M. of A. BENEDETTO -- read once and referred to the  
Committee on Codes

AN ACT to amend the penal law, in relation to conditions of probation  
and of conditional discharge

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

1 Section 1. Paragraph (h) of subdivision 2 of section 65.10 of the  
2 penal law, as amended by chapter 508 of the laws of 2001, is amended to  
3 read as follows:

4 (h) Perform services for a public or not-for-profit corporation, asso-  
5 ciation, institution or agency, including but not limited to services  
6 for the division of substance abuse services, [services in an appropri-  
7 ate community program for removal of graffiti from public or private  
8 property, including any property damaged in the underlying offense,] or  
9 services for the maintenance and repair of real or personal property  
10 maintained as a cemetery plot, grave, burial place or other place of  
11 interment of human remains. Provided however, that the performance of  
12 any such services shall not result in the displacement of employed work-  
13 ers or in the impairment of existing contracts for services, nor shall  
14 the performance of any such services be required or permitted in any  
15 establishment involved in any labor strike or lockout. The court may  
16 establish provisions for the early termination of a sentence of  
17 probation or conditional discharge pursuant to the provisions of subdi-  
18 vision three of section 410.90 of the criminal procedure law after such  
19 services have been completed. Such sentence may only be imposed upon  
20 conviction of a misdemeanor, violation, or class D or class E felony, or  
21 a youthful offender finding replacing any such conviction, where the  
22 defendant has consented to the amount and conditions of such service;

23 S 2. Section 65.10 of the penal law is amended by adding a new subdi-  
24 vision 6 to read as follows:

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

LBD05282-01-9

1       6. WHEN IMPOSING A SENTENCE OF PROBATION OR OF CONDITIONAL DISCHARGE  
2 IN CONNECTION WITH A VIOLATION OF SECTION 145.60 OR 145.65 OF THIS CHAP-  
3 TER, THE COURT SHALL AS A CONDITION OF THE SENTENCE, REQUIRE THAT THE  
4 DEFENDANT SHALL PERFORM SERVICES IN AN APPROPRIATE COMMUNITY PROGRAM FOR  
5 REMOVAL OF GRAFFITI FROM PUBLIC OR PRIVATE PROPERTY, INCLUDING ANY PROP-  
6 ERTY DAMAGED IN THE UNDERLYING OFFENSE.

7       S 3. This act shall take effect on the first of November next succeed-  
8 ing the date on which it shall have become a law.