

8603

2009-2010 Regular Sessions

I N   A S S E M B L Y

May 29, 2009

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Introduced by M. of A. BALL, TOWNSEND, HAYES, ALFANO, TEDISCO -- Multi-Sponsored by -- M. of A. AMEDORE, BACALLES, BARCLAY, BARRA, BURLING, CONTE, CORWIN, CROUCH, ERRIGO, FINCH, FITZPATRICK, GIGLIO, McDONOUGH, MILLER, OAKS, O'MARA, QUINN, RABBITT, RAIA, SALADINO, SAYWARD, SCOZZAFAVA, THIELE, TOBACCO, WALKER -- read once and referred to the Committee on Codes

AN ACT to amend the penal law, in relation to requiring lifetime post-release supervision for certain persons convicted of violent felony offenses; and to amend the correction law, in relation to prohibiting good behavior allowances against certain determinate sentences

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

1     Section 1. Paragraphs (d), (f), (g) and (i) of subdivision 2-a of  
2     section 70.45 of the penal law, as added by chapter 7 of the laws of  
3     2007, are amended to read as follows:  
4     (d) not less than three years nor more than ten years whenever a  
5     determinate sentence is imposed pursuant to subdivision three of section  
6     70.02 of this article upon a conviction of a class D or class E violent  
7     felony sex offense as defined in paragraph (b) of subdivision one of  
8     section 70.80 of this article; PROVIDED, HOWEVER, THAT WHEN THE  
9     CONVICTION WAS FOR THE COMMISSION OF SEXUAL ABUSE IN THE FIRST DEGREE AS  
10    DEFINED IN SECTION 130.65 WHEN THE VICTIM WAS LESS THAN ELEVEN YEARS OF  
11    AGE OR COURSE OF SEXUAL CONDUCT AGAINST A CHILD IN THE SECOND DEGREE AS  
12    DEFINED IN SECTION 130.80 OF THIS CHAPTER, THE PERIOD OF POST-RELEASE  
13    SUPERVISION SHALL BE FOR LIFE;  
14    (f) not less than five years nor more than twenty years whenever a  
15    determinate sentence is imposed pursuant to subdivision three of section  
16    70.02 of this article upon a conviction of a class B violent felony sex  
17    offense as defined in section 70.80 of this article; PROVIDED, HOWEVER,  
18    THAT WHEN THE CONVICTION WAS FOR THE COMMISSION OF RAPE IN THE FIRST  
19    DEGREE AS DEFINED IN SECTION 130.35, CRIMINAL SEXUAL ACT IN THE FIRST

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

LBD08211-02-9

1 DEGREE AS DEFINED IN SECTION 130.50, AGGRAVATED SEXUAL ABUSE IN THE  
2 FIRST DEGREE AS DEFINED IN SECTION 130.70 OR COURSE OF SEXUAL CONDUCT  
3 AGAINST A CHILD IN THE FIRST DEGREE AS DEFINED IN SECTION 130.75 OF THIS  
4 CHAPTER, THE PERIOD OF POST-RELEASE SUPERVISION SHALL BE FOR LIFE;

5 (g) not less than five years nor more than fifteen years whenever a  
6 determinate sentence of imprisonment is imposed pursuant to either  
7 section 70.04, section 70.06, or subdivision five of section 70.80 of  
8 this article upon a conviction of a class D or class E violent or non-  
9 violent felony sex offense as defined in section 70.80 of this article;  
10 PROVIDED, HOWEVER, THAT WHEN THE CONVICTION WAS FOR THE COMMISSION OF  
11 SEXUAL ABUSE IN THE FIRST DEGREE AS DEFINED IN SECTION 130.65 WHEN THE  
12 VICTIM WAS LESS THAN ELEVEN YEARS OF AGE OR COURSE OF SEXUAL CONDUCT  
13 AGAINST A CHILD IN THE SECOND DEGREE AS DEFINED IN SECTION 130.80 OF  
14 THIS CHAPTER, THE PERIOD OF POST-RELEASE SUPERVISION SHALL BE FOR LIFE;

15 (i) such period shall be not less than ten years nor more than twenty-  
16 five years whenever a determinate sentence of imprisonment is imposed  
17 pursuant to either section 70.04, section 70.06, or subdivision five of  
18 section 70.80 of this article upon a conviction of a class B violent or  
19 non-violent felony sex offense as defined in section 70.80 of this article;  
20 PROVIDED, HOWEVER, THAT WHEN THE CONVICTION WAS FOR THE COMMISSION  
21 OF RAPE IN THE FIRST DEGREE AS DEFINED IN SECTION 130.35, CRIMINAL SEXU-  
22 AL ACT IN THE FIRST DEGREE AS DEFINED IN SECTION 130.50, AGGRAVATED  
23 SEXUAL ABUSE IN THE FIRST DEGREE AS DEFINED IN SECTION 130.70 OR COURSE  
24 OF SEXUAL CONDUCT AGAINST A CHILD IN THE FIRST DEGREE AS DEFINED IN  
25 SECTION 130.75 OF THIS CHAPTER, THE PERIOD OF POST-RELEASE SUPERVISION  
26 SHALL BE FOR LIFE; and

27 S 2. Section 803 of the correction law is amended by adding a new  
28 subdivision 1-b to read as follows:

29 1-B. A PERSON SERVING A DETERMINATE SENTENCE WHO IS SUBJECT TO THE  
30 PERIOD OF POST-RELEASE SUPERVISION ESTABLISHED IN PARAGRAPH (D), (F),  
31 (G) OR (I) OF SUBDIVISION TWO-A OF SECTION 70.45 OF THE PENAL LAW SHALL  
32 NOT BE ENTITLED TO ANY GOOD BEHAVIOR ALLOWANCE ESTABLISHED IN THIS  
33 SECTION.

34 S 3. This act shall take effect on the first of November next succeeding  
35 the date on which it shall have become a law; provided however that  
36 the amendments to section 803 of the correction law made by section two  
37 of this act shall survive the expiration and reversion of such section  
38 as provided in subdivision d of section 74 of chapter 3 of the laws of  
39 1995, as amended.