

1270

2009-2010 Regular Sessions

I N   S E N A T E

January 28, 2009

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Introduced by Sens. MONTGOMERY, BRESLIN, DILAN, DUANE, HASSELL-THOMPSON, KRUEGER, SCHNEIDERMAN, THOMPSON -- 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 executive law, the criminal procedure law and the penal law, in relation to establishing substance abuse treatment alternatives for certain offenders

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

1     Section 1. The executive law is amended by adding a new section 249-a  
2 to read as follows:

3     S 249-A. SUBSTANCE ABUSE TREATMENT ALTERNATIVE PROGRAMS FOR CERTAIN  
4 OFFENDERS. 1. THE DIRECTOR SHALL ENTER INTO AGREEMENTS WITH RESIDENTIAL  
5 SUBSTANCE ABUSE TREATMENT PROGRAMS TO PROVIDE FOR THE CARE AND TREATMENT  
6 OF ELIGIBLE OFFENDERS SENTENCED PURSUANT TO SECTION 60.14 OF THE PENAL  
7 LAW.

8     2. SUCH PROGRAMS SHALL BE LICENSED BY THE OFFICE OF ALCOHOLISM AND  
9 SUBSTANCE ABUSE SERVICES AND SHALL BE APPROVED BY THE DIVISION OF  
10 PROBATION AND CORRECTIONAL ALTERNATIVES.

11     3. UPON THE SATISFACTORY COMPLETION OF THE COURSE OF TREATMENT, THE  
12 ELIGIBLE OFFENDER SHALL HAVE THE COURT IMPOSED SENTENCE OF CONDITIONAL  
13 DISCHARGE TERMINATED IN ACCORDANCE WITH THE PROVISIONS OF SECTION 410.90  
14 OF THE CRIMINAL PROCEDURE LAW.

15     S 2. Paragraph (a) of subdivision 3 of section 390.30 of the criminal  
16 procedure law, as added by chapter 14 of the laws of 1985, is amended to  
17 read as follows:

18     (a) The report of the pre-sentence investigation must contain an anal-  
19 ysis of as much of the information gathered in the investigation as the  
20 agency that conducted the investigation deems relevant to the question  
21 of sentence. WHERE APPROPRIATE, THE REPORT SHALL INCLUDE A TREATMENT  
22 PLAN INCLUDING BUT NOT LIMITED TO A LISTING OF AVAILABLE LICENSED

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

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1 SUBSTANCE ABUSE PROGRAMS TO PROVIDE FOR THE CARE AND TREATMENT OF OFFEN-  
2 DERS SENTENCED IN ACCORDANCE WITH THE PROVISIONS OF SUBDIVISION ONE OF  
3 SECTION 60.14 OF THE PENAL LAW. The report must also include any other  
4 [imformation] INFORMATION that the court directs to be included and the  
5 material required by paragraph (b) of this subdivision which shall be  
6 considered part of the report.

7 S 3. The penal law is amended by adding a new section 60.14 to read as  
8 follows:

9 S 60.14 AUTHORIZED DEPOSITIONS; CRIMINAL POSSESSION OF A CONTROLLED  
10 SUBSTANCE.

11 1. THE SENTENCE OF ANY PERSON CONVICTED OF A VIOLATION OF SECTION  
12 220.03 OF THIS CHAPTER, CRIMINAL POSSESSION OF A CONTROLLED SUBSTANCE IN  
13 THE SEVENTH DEGREE, SECTION 220.06 OF THIS CHAPTER, CRIMINAL POSSESSION  
14 OF A CONTROLLED SUBSTANCE IN THE FIFTH DEGREE, OR SECTION 221.20 OF THIS  
15 CHAPTER, CRIMINAL POSSESSION OF MARIHUANA IN THE THIRD DEGREE, FOR  
16 EITHER THE FIRST OR SECOND TIME WHO HAS NO PRIOR CONVICTION FOR ANY OF  
17 THE OTHER PROVISIONS OF ARTICLE TWO HUNDRED TWENTY OF THIS CHAPTER AND  
18 ALSO HAS NO PRIOR VIOLENT FELONY CONVICTION SHALL BE CONDITIONALLY  
19 DISCHARGED PROVIDED SUCH PERSON AGREES TO ATTEND, AND SUCCESSFULLY  
20 COMPLETES AN ALTERNATIVE PROGRAM OF SUBSTANCE ABUSE TREATMENT APPROVED  
21 IN ACCORDANCE WITH SECTION TWO HUNDRED FORTY-NINE-A OF THE EXECUTIVE  
22 LAW.

23 2. THE COURT SHALL IMPOSE SUCH A SENTENCE ON THE CONDITION THAT THE  
24 OFFENDER PARTICIPATE IN A SUBSTANCE ABUSE TREATMENT ALTERNATIVE PROGRAM  
25 FOR A SPECIFIED PERIOD OF TIME AS DETERMINED BY THE COURT.

26 3. UPON COMPLETION OF A COURSE OF TREATMENT, THE COURT SHALL TERMINATE  
27 THE SENTENCE IN ACCORDANCE WITH THE PROVISIONS OF SECTION 410.90 OF THE  
28 CRIMINAL PROCEDURE LAW. IF THE COURT DETERMINES THAT THE OFFENDER  
29 ABSCONDED FROM THE SUBSTANCE ABUSE TREATMENT ALTERNATIVE PROGRAM OR THAT  
30 THE SENTENCE IS NO LONGER SUITABLE BECAUSE IT ENDANGERS THE SAFETY,  
31 SECURITY OR ORDER OF SUCH TREATMENT FACILITY OR THAT THE OFFENDER OTHER-  
32 WISE VIOLATES THE TERMS AND CONDITIONS OF THE SENTENCE, THE SENTENCE MAY  
33 BE REVOKED. UPON REVOCATION, THE OFFENDER SHALL BE SENTENCED IN ACCORD-  
34 ANCE WITH THE OTHER PROVISIONS OF THIS CHAPTER APPLICABLE TO PERSONS  
35 CONVICTED OF CRIMINAL POSSESSION OF A CONTROLLED SUBSTANCE OR CRIMINAL  
36 POSSESSION OF MARIHUANA, AS THE CASE MAY BE.

37 4. THE COURT SHALL CONDUCT AN ONGOING EVALUATION OF THE PROGRAM. THE  
38 COURT SHALL UNDERTAKE STUDIES IN CONJUNCTION WITH THE DIVISION OF  
39 PROBATION AND CORRECTIONAL ALTERNATIVES, THE DIVISION OF PAROLE AND THE  
40 OFFICE OF ALCOHOLISM AND SUBSTANCE ABUSE SERVICES TO ENSURE THAT THE  
41 PROGRAMMATIC OBJECTIVES ARE MET.

42 S 4. This act shall take effect on the one hundred eightieth day after  
43 it shall have become a law.