

1880--A

2009-2010 Regular Sessions

I N S E N A T E

February 9, 2009

Introduced by Sen. KLEIN -- read twice and ordered printed, and when printed to be committed to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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 ASSEMBLY, 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 subdivi-
18 sion 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;

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

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1 S 2. Section 65.10 of the penal law is amended by adding a new subdi-
2 vision 6 to read as follows:
3 6. WHEN IMPOSING A SENTENCE OF PROBATION OR OF CONDITIONAL DISCHARGE
4 IN CONNECTION WITH A VIOLATION OF SECTION 145.60 OR 145.65 OF THIS CHAP-
5 TER, THE COURT SHALL AS A CONDITION OF THE SENTENCE, REQUIRE THAT THE
6 DEFENDANT REMOVE GRAFFITI FROM PUBLIC OR PRIVATE PROPERTY, INCLUDING ANY
7 PROPERTY DAMAGED IN THE UNDERLYING OFFENSE, UNLESS THE COURT SHALL
8 DETERMINE THAT AN APPROPRIATE PROGRAM TO SUPERVISE SUCH REMOVAL IS NOT
9 AVAILABLE OR THAT SUCH GRAFFITI REMOVAL WOULD BE UNREASONABLY DANGEROUS,
10 PROVIDED, HOWEVER, THAT GRAFFITI REMOVAL FROM PRIVATE PROPERTY PURSUANT
11 TO THIS SUBDIVISION SHALL BE SUBJECT TO CONSENT OF THE OWNER OF SUCH
12 PROPERTY.
13 S 3. This act shall take effect on the first of November next succeed-
14 ing the date on which it shall have become a law.