

5365

2009-2010 Regular Sessions

I N S E N A T E

April 27, 2009

Introduced by Sens. ONORATO, C. JOHNSON, KLEIN, SAMPSON, STACHOWSKI,
STAVISKY -- read twice and ordered printed, and when printed to be
committed to the Committee on Codes

AN ACT to amend the penal law, the vehicle and traffic law, the public
health law, the real property actions and proceedings law, and the
real property law, in relation to penalties for certain prostitution
offenses

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

1 Section 1. The penal law is amended by adding a new section 60.15 to
2 read as follows:
3 S 60.15 AUTHORIZED DISPOSITIONS, CERTAIN PROSTITUTION OFFENSES.
4 WHEN A PERSON IS CONVICTED OF PROSTITUTION AS DEFINED IN SECTION
5 230.00, PATRONIZING A PROSTITUTE IN THE FOURTH DEGREE AS DEFINED IN
6 SECTION 230.03, OR PERMITTING PROSTITUTION AS DEFINED IN SECTION 230.40,
7 THE SENTENCE OF THE COURT SHALL BE AS FOLLOWS:
8 (A) A PERIOD OF IMPRISONMENT AS PROVIDED IN SECTION 70.15; AND
9 (B) A PERIOD OF PROBATION AS PROVIDED FOR IN SECTION 65.00 WITH THE
10 FOLLOWING CONDITIONS TO BE MANDATORY:
11 (1) WHERE THE PERSON IS KNOWN TO HAVE A DRUG AND/OR ALCOHOL PROBLEM,
12 ATTENDANCE UPON AN APPROPRIATE TREATMENT PROGRAM PURSUANT TO PARAGRAPH
13 (E) OF SUBDIVISION TWO OF SECTION 65.10; AND
14 (2) PURSUING EMPLOYMENT OR STUDY PURSUANT TO PARAGRAPH (C) OF SUBDIVI-
15 SION TWO OF SECTION 65.10.
16 S 2. Subdivision 1 of section 70.15 of the penal law, as amended by
17 chapter 291 of the laws of 1993, is amended to read as follows:
18 1. Class A misdemeanor. A sentence of imprisonment for a class A
19 misdemeanor shall be a definite sentence. When such a sentence is
20 imposed the term shall be fixed by the court, and shall not exceed one
21 year; provided, however, that a sentence of imprisonment imposed upon a
22 conviction of criminal possession of a weapon in the fourth degree as

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

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1 defined in subdivision one of section 265.01 must be for a period of no
2 less than one year when the conviction was the result of a plea of guilt
3 entered in satisfaction of an indictment or any count thereof charging
4 the defendant with the class D violent felony offense of criminal
5 possession of a weapon in the third degree as defined in subdivision
6 four of section 265.02, except that the court may impose any other
7 sentence authorized by law upon a person who has not been previously
8 convicted in the five years immediately preceding the commission of the
9 offense for a felony or a class A misdemeanor defined in this chapter,
10 if the court having regard to the nature and circumstances of the crime
11 and to the history and character of the defendant, finds on the record
12 that such sentence would be unduly harsh and that the alternative
13 sentence would be consistent with public safety and does not deprecate
14 the seriousness of the crime. PROVIDED FURTHER THAT WHERE A PERSON IS
15 SENTENCED UPON CONVICTION OF PROSTITUTION AS DEFINED IN SECTION 230.00,
16 PATRONIZING A PROSTITUTE IN THE FOURTH DEGREE AS DEFINED IN SECTION
17 230.03, OR PERMITTING PROSTITUTION AS DEFINED IN SECTION 230.40, THE
18 SENTENCE OF THE COURT SHALL BE AS FOLLOWS: FOR A PERSON WHO HAS NOT
19 PREVIOUSLY BEEN CONVICTED OF ANY OF SUCH OFFENSES WITHIN THE PRECEDING
20 TEN YEARS, THE TERM OF IMPRISONMENT SHALL BE NO LESS THAN TEN DAYS; FOR
21 A PERSON WHO HAS ONCE BEEN PREVIOUSLY CONVICTED OF ANY OF SUCH OFFENSES
22 WITHIN THE PRECEDING TEN YEARS, THE TERM OF IMPRISONMENT SHALL BE NO
23 LESS THAN TWENTY DAYS; FOR A PERSON WHO HAS TWICE BEEN PREVIOUSLY
24 CONVICTED OF ANY OF SUCH OFFENSES WITHIN THE PRECEDING TEN YEARS, THE
25 TERM OF IMPRISONMENT SHALL BE NO LESS THAN THIRTY DAYS; FOR A PERSON WHO
26 HAS THRICE OR MORE BEEN PREVIOUSLY CONVICTED OF ANY OF SUCH OFFENSES
27 WITHIN THE PRECEDING TEN YEARS, THE TERM OF IMPRISONMENT SHALL BE NO
28 LESS THAN NINETY DAYS;

29 S 3. Section 230.00 of the penal law, as amended by chapter 169 of the
30 laws of 1969, is amended to read as follows:

31 S 230.00 Prostitution.

32 A person is guilty of prostitution when such person engages or agrees
33 or offers to engage in sexual conduct with another person in return for
34 a fee.

35 Prostitution is a class [B Misdemeanor] A MISDEMEANOR.

36 S 4. Sections 230.04, 230.05 and 230.06 of the penal law, section
37 230.04 as amended by chapter 74 of the laws of 2007 and sections 230.05
38 and 230.06 as added by chapter 627 of the laws of 1978, are amended to
39 read as follows:

40 S 230.04 Patronizing a prostitute in the third degree.

41 A person is guilty of patronizing a prostitute in the third degree
42 when he or she patronizes a prostitute.

43 Patronizing a prostitute in the third degree is a class [A misdemeanor]
44 [E FELONY].

45 S 230.05 Patronizing a prostitute in the second degree.

46 A person is guilty of patronizing a prostitute in the second degree
47 when, being over eighteen years of age, he OR SHE patronizes a prostitute
48 and the person patronized is less than fourteen years of age.

49 Patronizing a prostitute in the second degree is a class [E] D felony.

50 S 230.06 Patronizing a prostitute in the first degree.

51 A person is guilty of patronizing a prostitute in the first degree
52 when he OR SHE patronizes a prostitute and the person patronized is less
53 than eleven years of age.

54 Patronizing a prostitute in the first degree is a class [D] C felony.

55 S 5. Section 230.40 of the penal law is amended to read as follows:

56 S 230.40 Permitting prostitution.

1 A person is guilty of permitting prostitution when, having possession
2 or control of premises which he OR SHE knows are being used for prosti-
3 tution purposes, he OR SHE fails to make reasonable effort to halt or
4 abate such use.

5 Permitting prostitution is a class [B] A misdemeanor.

6 S 6. Subdivision 2 of section 240.37 of the penal law, as added by
7 chapter 344 of the laws of 1976, is amended to read as follows:

8 2. Any person who remains or wanders about in a public place and
9 repeatedly beckons to, or repeatedly stops, or repeatedly attempts to
10 stop, or repeatedly attempts to engage passers-by in conversation, or
11 repeatedly stops or attempts to stop motor vehicles, or repeatedly
12 interferes with the free passage of other persons, for the purpose of
13 prostitution, or of patronizing a prostitute as those terms are defined
14 in article two hundred thirty of the penal law, shall be guilty of a
15 violation and is guilty of a class B misdemeanor if such person has
16 previously been convicted of a violation of this section or of
17 [sections] SECTION 230.00 [or] , 230.04, 230.05, OR 230.06 of the penal
18 law.

19 S 7. Paragraph (c) of subdivision 4 of section 509-cc of the vehicle
20 and traffic law, as amended by chapter 345 of the laws of 2007, is
21 amended to read as follows:

22 (c) The offenses referred to in subparagraph (i) of paragraph (b) of
23 subdivision one and subparagraph (i) of paragraph (c) of subdivision two
24 of this section that result in disqualification for a period of five
25 years shall include a conviction under sections 100.10, 105.13, 115.05,
26 120.03, 120.04, 120.04-a, 120.05, 120.10, 120.25, 125.13, 125.14,
27 125.40, 125.45, 130.20, 130.25, 130.55, 135.10, 135.55, 140.17, 140.25,
28 140.30, 145.12, 150.10, 150.15, 160.05, 160.10, 220.06, 220.09, 220.16,
29 220.31, 220.34, 220.60, 221.30, 221.50, 221.55, 230.00, 230.04, 230.05,
30 230.06, 230.20, 230.25, 230.30, 230.32, 235.05, 235.06, 235.07, 235.21,
31 240.06, 245.00, 260.10, subdivision two of section 260.20 and sections
32 260.25, 265.02, 265.03, 265.08, 265.09, 265.10, 265.12, 265.35 of the
33 penal law or an attempt to commit any of the aforesaid offenses under
34 section 110.00 of the penal law, or any similar offenses committed under
35 a former section of the penal law, or any offenses committed under a
36 former section of the penal law which would constitute violations of the
37 aforesaid sections of the penal law, or any offenses committed outside
38 this state which would constitute violations of the aforesaid sections
39 of the penal law.

40 S 8. Section 2324-a of the public health law, as amended by chapter
41 260 of the laws of 1978, is amended to read as follows:

42 S 2324-a. Presumptive evidence. For the purposes of this title, two
43 or more convictions of any person or persons had, within a period of one
44 year, for any of the offenses described in section 230.00, 230.04,
45 230.05, 230.06, 230.20, 230.25 or 230.30 of the penal law arising out of
46 conduct engaged in at the same real property consisting of a dwelling as
47 that term is defined in subdivision four of section four of the multiple
48 dwelling law shall be presumptive evidence of conduct constituting use
49 of the premises for purposes of prostitution.

50 S 9. Subdivision 2 of section 715 of the real property actions and
51 proceedings law, as added by chapter 494 of the laws of 1976, is amended
52 to read as follows:

53 2. For purposes of this section, two or more convictions of any
54 person or persons had, within a period of one year, for any of the
55 offenses described in section 230.00, 230.04, 230.05, 230.06, 230.20,
56 230.25, 230.30 or 230.40 of the penal law arising out of conduct engaged

1 in at the same real property consisting of a dwelling as that term is
2 defined in subdivision four of section four of the multiple dwelling law
3 shall be presumptive evidence of conduct constituting use of the prem-
4 ises for purposes of prostitution.

5 S 10. Subdivision 3 of section 231 of the real property law, as
6 amended by chapter 203 of the laws of 1980, is amended to read as
7 follows:

8 3. For the purposes of this section, two or more convictions of any
9 person or persons had, within a period of one year, for any of the
10 offenses described in section 230.00, 230.04, 230.05, 230.06, 230.20,
11 230.25, 230.30, or 230.40 of the penal law arising out of conduct
12 engaged in at the same premises consisting of a dwelling as that term is
13 defined in subdivision four of section four of the multiple dwelling law
14 shall be presumptive evidence of unlawful use of such premises and of
15 the owners knowledge of the same.

16 S 11. This act shall take effect on the first of November next
17 succeeding the date on which it shall have become a law.