

5740

2009-2010 Regular Sessions

I N S E N A T E

June 2, 2009

Introduced by Sens. MONTGOMERY, HASSELL-THOMPSON, KRUEGER, OPPENHEIMER, PARKER, VOLKER -- 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 correction law, in relation to issues of merit time

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

1 Section 1. The opening paragraph of subparagraph (vi) of paragraph (d)  
2 of subdivision 1 of section 803 of the correction law, as added by  
3 section 1 of a chapter of the laws of 2009 amending the correction law  
4 relating to merit time allowances, as proposed in legislative bills  
5 numbers A.4516-C and S.3438-A, is amended to read as follows:  
6 A person convicted of a homicide offense as defined in article one  
7 hundred twenty-five of the penal law, an assault offense defined in  
8 article one hundred twenty of the penal law, a robbery offense as  
9 defined by article one hundred sixty of the penal law, a kidnapping  
10 offense as defined by article one hundred thirty-five of the penal law,  
11 an arson offense as defined by article one hundred fifty of the penal  
12 law, [a criminal mischief offense as defined by article one hundred  
13 forty-five of the penal law,] a burglary offense as defined by article  
14 one hundred forty of the penal law, criminal possession of a weapon in  
15 the second degree as defined by subdivisions two and three of section  
16 265.03 of the penal law, criminal use of a firearm in the first degree  
17 as defined by section 265.09 of the penal law, criminal use of a firearm  
18 in the second degree as defined by section 265.08 of the penal law, a  
19 conspiracy to commit such crimes as defined in article one hundred five  
20 of the penal law, an attempt to commit such crimes as defined in article  
21 one hundred ten of the penal law and serving a determinate or indetermi-  
22 nate sentence or sentences and who can demonstrate to the commissioner  
23 that: (1) the person is a victim of domestic violence who was subjected  
24 to substantial physical, sexual or psychological abuse inflicted by a  
25 member of the person's same family or household as that term is defined

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

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1 in subdivision one of section 530.11 of the criminal procedure law or a  
2 member of the person's immediate family as that term is defined in  
3 subdivision four of section 120.40 of the penal law; and (2) such  
4 offense was committed as a direct result of such abuse, may receive  
5 merit time allowance credit in the amount provided for in subparagraph  
6 (iii) of this paragraph. The merit time allowance established pursuant  
7 to this subparagraph shall be granted in the same manner as required by  
8 subparagraph (iv) of this paragraph.

9 S 2. The opening paragraph of subparagraph (vi) of paragraph (d) of  
10 subdivision 1 of section 803 of the correction law, as added by section  
11 2 of a chapter of the laws of 2009 amending the correction law relating  
12 to merit time allowances, as proposed in legislative bills numbers  
13 A.4516-C and S.3438-A, is amended to read as follows:

14 A person convicted of a homicide offense as defined in article one  
15 hundred twenty-five of the penal law, an assault offense defined in  
16 article one hundred twenty of the penal law, a robbery offense as  
17 defined by article one hundred sixty of the penal law, a kidnapping  
18 offense as defined by article one hundred thirty-five of the penal law,  
19 an arson offense as defined by article one hundred fifty of the penal  
20 law, [a criminal mischief offense as defined by article one hundred  
21 forty-five of the penal law,] a burglary offense as defined by article  
22 one hundred forty of the penal law, criminal possession of a weapon in  
23 the second degree as defined by subdivisions two and three of section  
24 265.03 of the penal law, criminal use of a firearm in the first degree  
25 as defined by section 265.09 of the penal law, criminal use of a firearm  
26 in the second degree as defined by section 265.08 of the penal law, a  
27 conspiracy to commit such crimes as defined in article one hundred five  
28 of the penal law, an attempt to commit such crimes as defined in article  
29 one hundred ten of the penal law and serving a determinate or indetermi-  
30 nate sentence or sentences and who can demonstrate to the commissioner  
31 that: (1) the person is a victim of domestic violence who was subjected  
32 to substantial physical, sexual or psychological abuse inflicted by a  
33 member of the person's same family or household as that term is defined  
34 in subdivision one of section 530.11 of the criminal procedure law or a  
35 member of the person's immediate family as that term is defined in  
36 subdivision four of section 120.40 of the penal law; and (2) such  
37 offense was committed as a direct result of such abuse, may receive  
38 merit time allowance credit in the amount provided for in subparagraph  
39 (iii) of this paragraph. The merit time allowance established pursuant  
40 to this subparagraph shall be granted in the same manner as required by  
41 subparagraph (iv) of this paragraph.

42 S 3. This act shall take effect on the same date and in the same  
43 manner as a chapter of the laws of 2009 amending the correction law  
44 relating to merit time allowances, as proposed in legislative bills  
45 numbers A.4516-C and S.3438-A, takes effect.