

S T A T E O F N E W Y O R K

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I N A S S E M B L Y

March 3, 2011

Introduced by M. of A. BURLING, RABBITT, FINCH, CASTELLI, CORWIN --
Multi-Sponsored by -- M. of A. BARCLAY, CALHOUN, CONTE, CROUCH,
FITZPATRICK, GIGLIO, HAWLEY, JORDAN, KOLB, McDONOUGH, McKEVITT,
J. MILLER, MOLINARO, MONTESANO, OAKS, RAIA, SAYWARD, SPANO, TEDISCO --
read once and referred to the Committee on Codes

AN ACT to amend the penal law and the criminal procedure law, in
relation to criminal diversion of prescription medications and
prescriptions

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

1 Section 1. Subdivision 2 and the opening paragraph and paragraphs (a)
2 and (b) of subdivision 3 of section 178.00 of the penal law, as added by
3 chapter 81 of the laws of 1995, are amended to read as follows:
4 2. "Prescription" means a direction or authorization by means of a
5 written prescription form or an oral prescription which permits OR
6 PURPORTS TO PERMIT a person to lawfully obtain a prescription medication
7 or device from any person authorized to dispense such prescription medi-
8 cation or device.
9 "Criminal diversion act" means an act, or acts CONSTITUTING A SYSTEM-
10 ATIC COURSE OF CONDUCT, in which a person knowingly:
11 (a) transfers or delivers, in exchange for anything of pecuniary
12 value, a prescription medication or device with [knowledge] BELIEF or
13 reasonable grounds to [know] BELIEVE that the recipient has no medical
14 need for it; or
15 (b) receives, in exchange for anything of pecuniary value, a
16 prescription medication or device with [knowledge] BELIEF or reasonable
17 grounds to [know] BELIEVE that the seller or transferor is not author-
18 ized by law to sell or transfer such prescription medication or device;
19 or
20 S 2. Section 178.00 of the penal law is amended by adding a new subdi-
21 vision 4 to read as follows:

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

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1 4. "VALUE OF THE BENEFIT EXCHANGED" MEANS THE VALUE OF THE
2 PRESCRIPTION MEDICATION OR DEVICE IF PURCHASED LAWFULLY.

3 S 3. Section 178.10 of the penal law, as added by chapter 81 of the
4 laws of 1995, is amended to read as follows:

5 S 178.10 Criminal diversion of prescription medications and
6 prescriptions in the [fourth] FIFTH degree.

7 A person is guilty of criminal diversion of prescription medications
8 and prescriptions in the [fourth] FIFTH degree when he or she commits a
9 criminal diversion act.

10 Criminal diversion of prescription medications and prescriptions in
11 the [fourth] FIFTH degree is a class A misdemeanor.

12 S 4. Section 178.15 of the penal law, as added by chapter 81 of the
13 laws of 1995, is amended to read as follows:

14 S 178.15 Criminal diversion of prescription medications and
15 prescriptions in the [third] FOURTH degree.

16 A person is guilty of criminal diversion of prescription medications
17 and prescriptions in the [third] FOURTH degree when he or she:

18 1. commits a criminal diversion act, and the value of the benefit
19 exchanged is in excess of one thousand dollars; or

20 2. commits the crime of criminal diversion of prescription medications
21 and prescriptions in the [fourth] FIFTH degree, and has previously been
22 convicted of [the crime of criminal diversion of prescription medica-
23 tions and prescriptions in the fourth degree.] ANY OFFENSE PURSUANT TO
24 THIS ARTICLE; OR

25 3. COMMITS THE CRIME OF CRIMINAL DIVERSION OF PRESCRIPTION MEDICATIONS
26 AND PRESCRIPTIONS IN THE FIFTH DEGREE AND SUCH PERSON IS A DULY LICENSED
27 PHARMACIST.

28 Criminal diversion of prescription medications and prescriptions in
29 the [third] FOURTH degree is a class E felony.

30 S 5. Section 178.20 of the penal law, as added by chapter 81 of the
31 laws of 1995, is amended to read as follows:

32 S 178.20 Criminal diversion of prescription medications and
33 prescriptions in the [second] THIRD degree.

34 A person is guilty of criminal diversion of prescription medications
35 and prescriptions in the [second] THIRD degree when he or she [commits]:

36 1. COMMITS a criminal diversion act, and the value of the benefit
37 exchanged is in excess of three thousand dollars[.]; OR

38 2. COMMITS THE CRIME OF CRIMINAL DIVERSION OF PRESCRIPTION MEDICATIONS
39 AND PRESCRIPTIONS IN THE FOURTH DEGREE AND SUCH PERSON IS A DULY
40 LICENSED PHARMACIST.

41 Criminal diversion of prescription medications and prescriptions in
42 the [second] THIRD degree is a class D felony.

43 S 6. Section 178.25 of the penal law, as added by chapter 81 of the
44 laws of 1995, is amended to read as follows:

45 S 178.25 Criminal diversion of prescription medications and
46 prescriptions in the [first] SECOND degree.

47 A person is guilty of criminal diversion of prescription medications
48 and prescriptions in the [first] SECOND degree when he or she:

49 1. commits a criminal diversion act, and the value of the benefit
50 exchanged is in excess of fifty thousand dollars[.]; OR

51 2. COMMITS THE CRIME OF CRIMINAL DIVERSION OF PRESCRIPTION MEDICATIONS
52 AND PRESCRIPTIONS IN THE THIRD DEGREE AND SUCH PERSON IS A DULY LICENSED
53 PHARMACIST.

54 Criminal diversion of prescription medications and prescriptions in
55 the [first] SECOND degree is a class C felony.

1 S 7. The penal law is amended by adding a new section 178.30 to read
2 as follows:

3 S 178.30 CRIMINAL DIVERSION OF PRESCRIPTION MEDICATIONS AND
4 PRESCRIPTIONS IN THE FIRST DEGREE.

5 A PERSON IS GUILTY OF CRIMINAL DIVERSION OF PRESCRIPTION MEDICATIONS
6 AND PRESCRIPTIONS IN THE FIRST DEGREE WHEN HE OR SHE:

7 1. COMMITS A CRIMINAL DIVERSION ACT AND THE VALUE OF THE BENEFIT
8 EXCHANGED IS IN EXCESS OF ONE MILLION DOLLARS; OR

9 2. COMMITS THE CRIME OF CRIMINAL DIVERSION OF PRESCRIPTION MEDICATIONS
10 AND PRESCRIPTIONS IN THE SECOND DEGREE AND SUCH PERSON IS A DULY
11 LICENSED PHARMACIST.

12 CRIMINAL DIVERSION OF PRESCRIPTION MEDICATIONS AND PRESCRIPTIONS IN
13 THE FIRST DEGREE IS A CLASS B FELONY.

14 S 8. The penal law is amended by adding a new section 178.35 to read
15 as follows:

16 S 178.35 CRIMINAL POSSESSION OF CRIMINALLY DIVERTED PRESCRIPTION MEDICA-
17 TIONS AND DEVICES IN THE FIFTH DEGREE.

18 A PERSON IS GUILTY OF CRIMINAL POSSESSION OF CRIMINALLY DIVERTED
19 PRESCRIPTION MEDICATIONS AND DEVICES IN THE FIFTH DEGREE WHEN HE OR SHE
20 KNOWINGLY POSSESSES ONE OR MORE OF THESE ITEMS UNDER CIRCUMSTANCES
21 EVINCING THE INTENT TO ENGAGE IN A CRIMINAL DIVERSION ACT OR BELIEF THAT
22 SUCH ITEMS WERE ACQUIRED IN ONE OR MORE CRIMINAL DIVERSION ACTS.

23 CRIMINAL POSSESSION OF CRIMINALLY DIVERTED PRESCRIPTION MEDICATIONS
24 AND DEVICES IN THE FIFTH DEGREE IS A CLASS A MISDEMEANOR.

25 S 9. The penal law is amended by adding a new section 178.40 to read
26 as follows:

27 S 178.40 CRIMINAL POSSESSION OF CRIMINALLY DIVERTED PRESCRIPTION MEDICA-
28 TIONS AND DEVICES IN THE FOURTH DEGREE.

29 A PERSON IS GUILTY OF CRIMINAL POSSESSION OF CRIMINALLY DIVERTED
30 PRESCRIPTION MEDICATIONS AND DEVICES IN THE FOURTH DEGREE WHEN HE OR
31 SHE:

32 1. KNOWINGLY POSSESSES CRIMINALLY DIVERTED PRESCRIPTION MEDICATIONS OR
33 DEVICES AND THE AGGREGATE VALUE OF THE ITEMS SO POSSESSED, AS IF
34 PURCHASED LAWFULLY, IS IN EXCESS OF ONE THOUSAND DOLLARS; OR

35 2. COMMITS THE CRIME OF CRIMINAL POSSESSION OF CRIMINALLY DIVERTED
36 PRESCRIPTION MEDICATIONS AND DEVICES IN THE FIFTH DEGREE AND HAS PREVI-
37 OUSLY BEEN CONVICTED OF ANY CRIME SET FORTH IN THIS ARTICLE; OR

38 3. COMMITS THE CRIME OF CRIMINAL POSSESSION OF CRIMINALLY DIVERTED
39 PRESCRIPTION MEDICATIONS AND DEVICES IN THE FIFTH DEGREE AND SUCH PERSON
40 IS A DULY LICENSED PHARMACIST.

41 CRIMINAL POSSESSION OF CRIMINALLY DIVERTED PRESCRIPTION MEDICATIONS
42 AND DEVICES IN THE FOURTH DEGREE IS A CLASS E FELONY.

43 S 10. The penal law is amended by adding a new section 178.45 to read
44 as follows:

45 S 178.45 CRIMINAL POSSESSION OF CRIMINALLY DIVERTED PRESCRIPTION MEDICA-
46 TIONS AND DEVICES IN THE THIRD DEGREE.

47 A PERSON IS GUILTY OF CRIMINAL POSSESSION OF CRIMINALLY DIVERTED
48 PRESCRIPTION MEDICATIONS AND DEVICES IN THE THIRD DEGREE WHEN HE OR SHE:

49 1. KNOWINGLY POSSESSES CRIMINALLY DIVERTED PRESCRIPTION MEDICATIONS OR
50 DEVICES AND THE AGGREGATE VALUE OF THE ITEMS SO POSSESSED, AS IF
51 PURCHASED LAWFULLY, IS IN EXCESS OF THREE THOUSAND DOLLARS; OR

52 2. COMMITS THE CRIME OF CRIMINAL POSSESSION OF CRIMINALLY DIVERTED
53 PRESCRIPTION MEDICATIONS AND DEVICES IN THE FOURTH DEGREE AND SUCH
54 PERSON IS A DULY LICENSED PHARMACIST.

55 CRIMINAL POSSESSION OF CRIMINALLY DIVERTED PRESCRIPTION MEDICATIONS
56 AND DEVICES IN THE THIRD DEGREE IS A CLASS D FELONY.

1 S 11. The penal law is amended by adding a new section 178.50 to read
2 as follows:

3 S 178.50 CRIMINAL POSSESSION OF CRIMINALLY DIVERTED PRESCRIPTION MEDICA-
4 TIONS AND DEVICES IN THE SECOND DEGREE.

5 A PERSON IS GUILTY OF CRIMINAL POSSESSION OF CRIMINALLY DIVERTED
6 PRESCRIPTION MEDICATIONS AND DEVICES IN THE SECOND DEGREE WHEN HE OR
7 SHE:

8 1. KNOWINGLY POSSESSES CRIMINALLY DIVERTED PRESCRIPTION MEDICATIONS OR
9 DEVICES AND THE AGGREGATE VALUE OF THE ITEMS SO POSSESSED, AS IF
10 PURCHASED LAWFULLY, IS IN EXCESS OF FIFTY THOUSAND DOLLARS; OR

11 2. COMMITS THE CRIME OF CRIMINAL POSSESSION OF CRIMINALLY DIVERTED
12 PRESCRIPTION MEDICATIONS AND DEVICES IN THE THIRD DEGREE AND SUCH PERSON
13 IS A DULY LICENSED PHARMACIST.

14 CRIMINAL POSSESSION OF CRIMINALLY DIVERTED PRESCRIPTION MEDICATIONS
15 AND DEVICES IN THE SECOND DEGREE IS A CLASS C FELONY.

16 S 12. The penal law is amended by adding a new section 178.55 to read
17 as follows:

18 S 178.55 CRIMINAL POSSESSION OF CRIMINALLY DIVERTED PRESCRIPTION MEDICA-
19 TIONS AND DEVICES IN THE FIRST DEGREE.

20 A PERSON IS GUILTY OF CRIMINAL POSSESSION OF CRIMINALLY DIVERTED
21 PRESCRIPTION MEDICATIONS AND DEVICES IN THE FIRST DEGREE WHEN HE OR SHE:

22 1. KNOWINGLY POSSESSES CRIMINALLY DIVERTED PRESCRIPTION MEDICATIONS OR
23 DEVICES AND THE AGGREGATE VALUE OF THE ITEMS SO POSSESSED, AS IF
24 PURCHASED LAWFULLY, IS IN EXCESS OF ONE MILLION DOLLARS; OR

25 2. COMMITS THE CRIME OF CRIMINAL POSSESSION OF CRIMINALLY DIVERTED
26 PRESCRIPTION MEDICATIONS AND DEVICES IN THE SECOND DEGREE AND SUCH
27 PERSON IS A DULY LICENSED PHARMACIST.

28 CRIMINAL POSSESSION OF CRIMINALLY DIVERTED PRESCRIPTION MEDICATIONS
29 AND DEVICES IN THE FIRST DEGREE IS A CLASS B FELONY.

30 S 13. The penal law is amended by adding a new section 178.60 to read
31 as follows:

32 S 178.60 CRIMINAL POSSESSION OF CRIMINALLY DIVERTED PRESCRIPTION MEDICA-
33 TIONS AND DEVICES; REBUTTABLE PRESUMPTIONS.

34 1. A PERSON IS PRESUMED TO KNOWINGLY POSSESS CRIMINALLY DIVERTED
35 PRESCRIPTION MEDICATIONS AND DEVICES WHEN HE OR SHE POSSESSES SUCH ITEMS
36 IN FIVE OR MORE PREVIOUSLY DISPENSED CONTAINERS WITH THE NAMES OF
37 DIFFERENT PERSONS APPEARING ON SUCH CONTAINERS.

38 2. A PERSON IS PRESUMED TO KNOWINGLY POSSESS CRIMINALLY DIVERTED
39 PRESCRIPTION MEDICATIONS OR DEVICES WHEN HE OR SHE POSSESSES SUCH ITEMS
40 IN FIVE OR MORE CONTAINERS OTHER THAN THOSE IN WHICH HE OR SHE IS
41 AUTHORIZED TO POSSESS PURSUANT TO SECTIONS SIXTY-EIGHT HUNDRED ELEVEN
42 AND SIXTY-EIGHT HUNDRED FIFTEEN OF THE EDUCATION LAW.

43 S 14. Paragraph (a) of subdivision 1 of section 460.10 of the penal
44 law, as amended by chapter 405 of the laws of 2010, is amended to read
45 as follows:

46 (a) Any of the felonies set forth in this chapter: sections 120.05,
47 120.10 and 120.11 relating to assault; sections 121.12 and 121.13 relat-
48 ing to strangulation; sections 125.10 to 125.27 relating to homicide;
49 sections 130.25, 130.30 and 130.35 relating to rape; sections 135.20 and
50 135.25 relating to kidnapping; section 135.35 relating to labor traf-
51 ficking; section 135.65 relating to coercion; sections 140.20, 140.25
52 and 140.30 relating to burglary; sections 145.05, 145.10 and 145.12
53 relating to criminal mischief; article one hundred fifty relating to
54 arson; sections 155.30, 155.35, 155.40 and 155.42 relating to grand
55 larceny; sections 177.10, 177.15, 177.20 and 177.25 relating to health
56 care fraud; article one hundred sixty relating to robbery; sections

1 165.45, 165.50, 165.52 and 165.54 relating to criminal possession of
2 stolen property; sections 165.72 and 165.73 relating to trademark coun-
3 terfeiting; sections 170.10, 170.15, 170.25, 170.30, 170.40, 170.65 and
4 170.70 relating to forgery; sections 175.10, 175.25, 175.35, 175.40 and
5 210.40 relating to false statements; sections 176.15, 176.20, 176.25 and
6 176.30 relating to insurance fraud; sections 178.20 [and], 178.25 AND
7 178.30 relating to criminal diversion of prescription medications and
8 prescriptions; SECTIONS 178.40, 178.45, 178.50 AND 178.55 RELATING TO
9 CRIMINAL POSSESSION OF CRIMINALLY DIVERTED PRESCRIPTION MEDICATIONS AND
10 DEVICES; sections 180.03, 180.08, 180.15, 180.25, 180.40, 180.45,
11 200.00, 200.03, 200.04, 200.10, 200.11, 200.12, 200.20, 200.22, 200.25,
12 200.27, 215.00, 215.05 and 215.19 relating to bribery; sections 187.10,
13 187.15, 187.20 and 187.25 relating to residential mortgage fraud,
14 sections 190.40 and 190.42 relating to criminal usury; section 190.65
15 relating to schemes to defraud; sections 205.60 and 205.65 relating to
16 hindering prosecution; sections 210.10, 210.15, and 215.51 relating to
17 perjury and contempt; section 215.40 relating to tampering with physical
18 evidence; sections 220.06, 220.09, 220.16, 220.18, 220.21, 220.31,
19 220.34, 220.39, 220.41, 220.43, 220.46, 220.55, 220.60 and 220.77 relat-
20 ing to controlled substances; sections 225.10 and 225.20 relating to
21 gambling; sections 230.25, 230.30, and 230.32 relating to promoting
22 prostitution; section 230.34 relating to sex trafficking; sections
23 235.06, 235.07, 235.21 and 235.22 relating to obscenity; sections 263.10
24 and 263.15 relating to promoting a sexual performance by a child;
25 sections 265.02, 265.03, 265.04, 265.11, 265.12, 265.13 and the
26 provisions of section 265.10 which constitute a felony relating to
27 firearms and other dangerous weapons; and sections 265.14 and 265.16
28 relating to criminal sale of a firearm; and section 275.10, 275.20,
29 275.30, or 275.40 relating to unauthorized recordings; and sections
30 470.05, 470.10, 470.15 and 470.20 relating to money laundering; or
31 S 15. Paragraphs (b) and (c) of subdivision 8 of section 700.05 of the
32 criminal procedure law, paragraph (b) as amended by chapter 405 of the
33 laws of 2010 and paragraph (c) as amended by section 11 of part AAA of
34 chapter 56 of the laws of 2009, are amended to read as follows:
35 (b) Any of the following felonies: assault in the second degree as
36 defined in section 120.05 of the penal law, assault in the first degree
37 as defined in section 120.10 of the penal law, reckless endangerment in
38 the first degree as defined in section 120.25 of the penal law, promot-
39 ing a suicide attempt as defined in section 120.30 of the penal law,
40 strangulation in the second degree as defined in section 121.12 of the
41 penal law, strangulation in the first degree as defined in section
42 121.13 of the penal law, criminally negligent homicide as defined in
43 section 125.10 of the penal law, manslaughter in the second degree as
44 defined in section 125.15 of the penal law, manslaughter in the first
45 degree as defined in section 125.20 of the penal law, murder in the
46 second degree as defined in section 125.25 of the penal law, murder in
47 the first degree as defined in section 125.27 of the penal law, abortion
48 in the second degree as defined in section 125.40 of the penal law,
49 abortion in the first degree as defined in section 125.45 of the penal
50 law, rape in the third degree as defined in section 130.25 of the penal
51 law, rape in the second degree as defined in section 130.30 of the penal
52 law, rape in the first degree as defined in section 130.35 of the penal
53 law, criminal sexual act in the third degree as defined in section
54 130.40 of the penal law, criminal sexual act in the second degree as
55 defined in section 130.45 of the penal law, criminal sexual act in the
56 first degree as defined in section 130.50 of the penal law, sexual abuse

1 in the first degree as defined in section 130.65 of the penal law,
2 unlawful imprisonment in the first degree as defined in section 135.10
3 of the penal law, kidnapping in the second degree as defined in section
4 135.20 of the penal law, kidnapping in the first degree as defined in
5 section 135.25 of the penal law, labor trafficking as defined in section
6 135.35 of the penal law, custodial interference in the first degree as
7 defined in section 135.50 of the penal law, coercion in the first degree
8 as defined in section 135.65 of the penal law, criminal trespass in the
9 first degree as defined in section 140.17 of the penal law, burglary in
10 the third degree as defined in section 140.20 of the penal law, burglary
11 in the second degree as defined in section 140.25 of the penal law,
12 burglary in the first degree as defined in section 140.30 of the penal
13 law, criminal mischief in the third degree as defined in section 145.05
14 of the penal law, criminal mischief in the second degree as defined in
15 section 145.10 of the penal law, criminal mischief in the first degree
16 as defined in section 145.12 of the penal law, criminal tampering in the
17 first degree as defined in section 145.20 of the penal law, arson in the
18 fourth degree as defined in section 150.05 of the penal law, arson in
19 the third degree as defined in section 150.10 of the penal law, arson in
20 the second degree as defined in section 150.15 of the penal law, arson
21 in the first degree as defined in section 150.20 of the penal law, grand
22 larceny in the fourth degree as defined in section 155.30 of the penal
23 law, grand larceny in the third degree as defined in section 155.35 of
24 the penal law, grand larceny in the second degree as defined in section
25 155.40 of the penal law, grand larceny in the first degree as defined in
26 section 155.42 of the penal law, health care fraud in the fourth degree
27 as defined in section 177.10 of the penal law, health care fraud in the
28 third degree as defined in section 177.15 of the penal law, health care
29 fraud in the second degree as defined in section 177.20 of the penal
30 law, health care fraud in the first degree as defined in section 177.25
31 of the penal law, robbery in the third degree as defined in section
32 160.05 of the penal law, robbery in the second degree as defined in
33 section 160.10 of the penal law, robbery in the first degree as defined
34 in section 160.15 of the penal law, unlawful use of secret scientific
35 material as defined in section 165.07 of the penal law, criminal
36 possession of stolen property in the fourth degree as defined in section
37 165.45 of the penal law, criminal possession of stolen property in the
38 third degree as defined in section 165.50 of the penal law, criminal
39 possession of stolen property in the second degree as defined by section
40 165.52 of the penal law, criminal possession of stolen property in the
41 first degree as defined by section 165.54 of the penal law, trademark
42 counterfeiting in the second degree as defined in section 165.72 of the
43 penal law, trademark counterfeiting in the first degree as defined in
44 section 165.73 of the penal law, forgery in the second degree as defined
45 in section 170.10 of the penal law, forgery in the first degree as
46 defined in section 170.15 of the penal law, criminal possession of a
47 forged instrument in the second degree as defined in section 170.25 of
48 the penal law, criminal possession of a forged instrument in the first
49 degree as defined in section 170.30 of the penal law, criminal
50 possession of forgery devices as defined in section 170.40 of the penal
51 law, falsifying business records in the first degree as defined in
52 section 175.10 of the penal law, tampering with public records in the
53 first degree as defined in section 175.25 of the penal law, offering a
54 false instrument for filing in the first degree as defined in section
55 175.35 of the penal law, issuing a false certificate as defined in
56 section 175.40 of the penal law, CRIMINAL DIVERSION OF PRESCRIPTION

1 MEDICATIONS AND PRESCRIPTIONS IN THE FOURTH DEGREE AS DEFINED IN SECTION
2 178.15 OF THE PENAL LAW, criminal diversion of prescription medications
3 and prescriptions in the [second] THIRD degree as defined in section
4 178.20 of the penal law, criminal diversion of prescription medications
5 and prescriptions in the [first] SECOND degree as defined in section
6 178.25 of the penal law, CRIMINAL DIVERSION OF PRESCRIPTION MEDICATIONS
7 AND PRESCRIPTIONS IN THE FIRST DEGREE AS DEFINED IN SECTION 178.30 OF
8 THE PENAL LAW, CRIMINAL POSSESSION OF CRIMINALLY DIVERTED PRESCRIPTION
9 MEDICATIONS AND DEVICES IN THE FOURTH DEGREE AS DEFINED IN SECTION
10 178.40 OF THE PENAL LAW, CRIMINAL POSSESSION OF CRIMINALLY DIVERTED
11 PRESCRIPTION MEDICATIONS AND DEVICES IN THE THIRD DEGREE AS DEFINED IN
12 SECTION 178.45 OF THE PENAL LAW, CRIMINAL POSSESSION OF CRIMINALLY
13 DIVERTED PRESCRIPTION MEDICATIONS AND DEVICES IN THE SECOND DEGREE AS
14 DEFINED IN SECTION 178.50 OF THE PENAL LAW, CRIMINAL POSSESSION OF
15 CRIMINALLY DIVERTED PRESCRIPTION MEDICATIONS AND DEVICES IN THE FIRST
16 DEGREE AS DEFINED IN SECTION 178.55 OF THE PENAL LAW, residential mort-
17 gage fraud in the fourth degree as defined in section 187.10 of the
18 penal law, residential mortgage fraud in the third degree as defined in
19 section 187.15 of the penal law, residential mortgage fraud in the
20 second degree as defined in section 187.20 of the penal law, residential
21 mortgage fraud in the first degree as defined in section 187.25 of the
22 penal law, escape in the second degree as defined in section 205.10 of
23 the penal law, escape in the first degree as defined in section 205.15
24 of the penal law, absconding from temporary release in the first degree
25 as defined in section 205.17 of the penal law, promoting prison contra-
26 band in the first degree as defined in section 205.25 of the penal law,
27 hindering prosecution in the second degree as defined in section 205.60
28 of the penal law, hindering prosecution in the first degree as defined
29 in section 205.65 of the penal law, sex trafficking as defined in
30 section 230.34 of the penal law, criminal possession of a weapon in the
31 third degree as defined in subdivisions two, three and five of section
32 265.02 of the penal law, criminal possession of a weapon in the second
33 degree as defined in section 265.03 of the penal law, criminal
34 possession of a weapon in the first degree as defined in section 265.04
35 of the penal law, manufacture, transport, disposition and defacement of
36 weapons and dangerous instruments and appliances defined as felonies in
37 subdivisions one, two, and three of section 265.10 of the penal law,
38 sections 265.11, 265.12 and 265.13 of the penal law, or prohibited use
39 of weapons as defined in subdivision two of section 265.35 of the penal
40 law, relating to firearms and other dangerous weapons, or failure to
41 disclose the origin of a recording in the first degree as defined in
42 section 275.40 of the penal law;

43 (c) Criminal DIVERSION OF PRESCRIPTION MEDICATIONS AND PRESCRIPTIONS
44 IN THE FIFTH DEGREE AS DEFINED IN SECTION 178.10 OF THE PENAL LAW, CRIM-
45 INAL POSSESSION OF CRIMINALLY DIVERTED PRESCRIPTION MEDICATIONS AND
46 DEVICES IN THE FIFTH DEGREE AS DEFINED IN SECTION 178.35 OF THE PENAL
47 LAW, CRIMINAL possession of a controlled substance in the seventh degree
48 as defined in section 220.03 of the penal law, criminal possession of a
49 controlled substance in the fifth degree as defined in section 220.06 of
50 the penal law, criminal possession of a controlled substance in the
51 fourth degree as defined in section 220.09 of the penal law, criminal
52 possession of a controlled substance in the third degree as defined in
53 section 220.16 of the penal law, criminal possession of a controlled
54 substance in the second degree as defined in section 220.18 of the penal
55 law, criminal possession of a controlled substance in the first degree
56 as defined in section 220.21 of the penal law, criminal sale of a

1 controlled substance in the fifth degree as defined in section 220.31 of
2 the penal law, criminal sale of a controlled substance in the fourth
3 degree as defined in section 220.34 of the penal law, criminal sale of a
4 controlled substance in the third degree as defined in section 220.39 of
5 the penal law, criminal sale of a controlled substance in the second
6 degree as defined in section 220.41 of the penal law, criminal sale of a
7 controlled substance in the first degree as defined in section 220.43 of
8 the penal law, criminally possessing a hypodermic instrument as defined
9 in section 220.45 of the penal law, criminal possession of methampheta-
10 mine manufacturing material in the second degree as defined in section
11 220.70 of the penal law, criminal possession of methamphetamine manufac-
12 turing material in the first degree as defined in section 220.71 of the
13 penal law, criminal possession of precursors of methamphetamine as
14 defined in section 220.72 of the penal law, unlawful manufacture of
15 methamphetamine in the third degree as defined in section 220.73 of the
16 penal law, unlawful manufacture of methamphetamine in the second degree
17 as defined in section 220.74 of the penal law, unlawful manufacture of
18 methamphetamine in the first degree as defined in section 220.75 of the
19 penal law, unlawful disposal of methamphetamine laboratory material as
20 defined in section 220.76 of the penal law, operating as a major traf-
21 ficker as defined in section 220.77 of the penal law, criminal
22 possession of marihuana in the first degree as defined in section 221.30
23 of the penal law, criminal sale of marihuana in the first degree as
24 defined in section 221.55 of the penal law, promoting gambling in the
25 second degree as defined in section 225.05 of the penal law, promoting
26 gambling in the first degree as defined in section 225.10 of the penal
27 law, possession of gambling records in the second degree as defined in
28 section 225.15 of the penal law, possession of gambling records in the
29 first degree as defined in section 225.20 of the penal law, and
30 possession of a gambling device as defined in section 225.30 of the
31 penal law;

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