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

6262

I N S E N A T E

January 18, 2012

Introduced by Sen. ESPAILLAT -- read twice and ordered printed, and when printed to be committed to the Committee on Codes

AN ACT to amend the criminal procedure law, in relation to establishing gun court calendars in the criminal courts

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

Section 1. Legislative intent. The legislature finds and declares that:

(1) There has been significant growth in the use of firearms in the commission of violent crimes.

(2) Many of the shootings are drug or gang related and endanger law abiding citizens.

(3) Many of the gun offenses are committed while individuals are free on bail for other offenses.

(4) The growing number of gun related offenses constitutes a burden upon the state of New York and threatens the domestic tranquility of the state and its people, especially residents of the urban areas where these crimes are most prevalent.

(5) In order to deter the use of firearms in the commission of violent crimes, and to protect the law abiding public, there must be swift disposition of gun related offenses in our courts, and there must be the certain prospect of prison terms for those who are convicted of such crimes.

It is therefore declared to be the policy of the state of New York to provide maximum safety and security to its people from unlawful gun related violence and intrusion upon their persons and property by expediting the processing and disposition of such cases and, unless otherwise provided, imposing prison terms that must be served.

To accomplish this purpose in an effort to minimize delay in the processing of criminal cases in this state relating to the illegal possession and use of guns and other dangerous weapons there shall be established a separate calendar within the jurisdiction of the criminal courts of this state for hearing trial and disposition of actions

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

LBD07288-01-1

brought pursuant to the provisions of the penal law wherein a firearm was used during the commission of any crime contained therein.

S 2. The criminal procedure law is amended by adding a new section 10.50 to read as follows:

S 10.50 GUN COURT CALENDAR.

1. EACH PRESIDING JUSTICE OF THE CRIMINAL COURTS OF THIS STATE SHALL CREATE A GUN COURT CALENDAR AND SHALL ASSIGN PERSONNEL TO THE EXTENT WARRANTED TO EXCLUSIVELY HEAR AND DECIDE ALL CRIMINAL ACTIONS INVOLVING OFFENSES WHEREIN A FIREARM WAS USED DURING THE COMMISSION OF ANY CRIME. SUCH CALENDAR SHALL BE REFERRED TO AS THE "GUN COURT CALENDAR" OF THE CRIMINAL COURT FOR THE PURPOSES OF THE PROVISIONS OF THE PENAL LAW WHEREIN A FIREARM WAS USED DURING THE COMMISSION OF ANY CRIME CONTAINED THEREIN.

2. ALL TRIALS IN THE CRIMINAL COURTS OF THIS STATE SCHEDULED FOR TRIAL ON THE GUN COURT CALENDAR SHALL BE COMMENCED WITHIN SIXTY DAYS OF THE COMPLETION OF DISCOVERY NOTWITHSTANDING ANY OTHER PROVISION OF LAW. NO CONTINUANCES OR POSTPONEMENTS SHALL BE GRANTED EXCEPT FOR GOOD CAUSE SHOWN. SUCH CONTINUANCES AS ARE NECESSARY SHALL BE GRANTED FOR THE SHORTEST PRACTICABLE TIME.

3. UNDER NO CIRCUMSTANCES SHALL A DEFENDANT BE PERMITTED TO RELY UPON THE PROVISIONS OF THIS SECTION AS A BASIS FOR A DISMISSAL OF AN ACTION.

S 3. This act shall take effect on the thirtieth day after it shall have become a law.