

6262

I N   S E N A T E

January 18, 2012

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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:

1     Section 1. Legislative intent. The legislature finds and declares  
2     that:  
3     (1) There has been significant growth in the use of firearms in the  
4     commission of violent crimes.  
5     (2) Many of the shootings are drug or gang related and endanger law  
6     abiding citizens.  
7     (3) Many of the gun offenses are committed while individuals are free  
8     on bail for other offenses.  
9     (4) The growing number of gun related offenses constitutes a burden  
10    upon the state of New York and threatens the domestic tranquility of the  
11    state and its people, especially residents of the urban areas where  
12    these crimes are most prevalent.  
13    (5) In order to deter the use of firearms in the commission of violent  
14    crimes, and to protect the law abiding public, there must be swift  
15    disposition of gun related offenses in our courts, and there must be the  
16    certain prospect of prison terms for those who are convicted of such  
17    crimes.  
18    It is therefore declared to be the policy of the state of New York to  
19    provide maximum safety and security to its people from unlawful gun  
20    related violence and intrusion upon their persons and property by expe-  
21    diting the processing and disposition of such cases and, unless other-  
22    wise provided, imposing prison terms that must be served.  
23    To accomplish this purpose in an effort to minimize delay in the proc-  
24    essing of criminal cases in this state relating to the illegal  
25    possession and use of guns and other dangerous weapons there shall be  
26    established a separate calendar within the jurisdiction of the criminal  
27    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.

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

3 S 2. The criminal procedure law is amended by adding a new section  
4 10.50 to read as follows:

5 S 10.50 GUN COURT CALENDAR.

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

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

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

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