

1508

2011-2012 Regular Sessions

I N   S E N A T E

January 10, 2011

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Introduced by Sens. MONTGOMERY, BRESLIN, DILAN, DUANE, HASSELL-THOMPSON,  
KRUEGER -- 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 executive law, the criminal procedure law and the  
penal law, in relation to establishing substance abuse treatment  
alternatives for certain offenders

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

1     Section 1. The executive law is amended by adding a new section 249-a  
2     to read as follows:  
3     S 249-A. SUBSTANCE ABUSE TREATMENT ALTERNATIVE PROGRAMS FOR CERTAIN  
4     OFFENDERS. 1. THE DIRECTOR SHALL ENTER INTO AGREEMENTS WITH RESIDENTIAL  
5     SUBSTANCE ABUSE TREATMENT PROGRAMS TO PROVIDE FOR THE CARE AND TREATMENT  
6     OF ELIGIBLE OFFENDERS SENTENCED PURSUANT TO SECTION 60.14 OF THE PENAL  
7     LAW.  
8     2. SUCH PROGRAMS SHALL BE LICENSED BY THE OFFICE OF ALCOHOLISM AND  
9     SUBSTANCE ABUSE SERVICES AND SHALL BE APPROVED BY THE DIVISION OF  
10    PROBATION AND CORRECTIONAL ALTERNATIVES.  
11    3. UPON THE SATISFACTORY COMPLETION OF THE COURSE OF TREATMENT, THE  
12    ELIGIBLE OFFENDER SHALL HAVE THE COURT IMPOSED SENTENCE OF CONDITIONAL  
13    DISCHARGE TERMINATED IN ACCORDANCE WITH THE PROVISIONS OF SECTION 410.90  
14    OF THE CRIMINAL PROCEDURE LAW.  
15    S 2. Paragraph (a) of subdivision 3 of section 390.30 of the criminal  
16    procedure law, as added by chapter 14 of the laws of 1985, is amended to  
17    read as follows:  
18    (a) The report of the pre-sentence investigation must contain an anal-  
19    ysis of as much of the information gathered in the investigation as the  
20    agency that conducted the investigation deems relevant to the question  
21    of sentence. WHERE APPROPRIATE, THE REPORT SHALL INCLUDE A TREATMENT  
22    PLAN INCLUDING BUT NOT LIMITED TO A LISTING OF AVAILABLE LICENSED  
23    SUBSTANCE ABUSE PROGRAMS TO PROVIDE FOR THE CARE AND TREATMENT OF OFFEN-

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

LBD06133-01-1

1 DERS SENTENCED IN ACCORDANCE WITH THE PROVISIONS OF SUBDIVISION ONE OF  
2 SECTION 60.14 OF THE PENAL LAW. The report must also include any other  
3 [imformation] INFORMATION that the court directs to be included and the  
4 material required by paragraph (b) of this subdivision which shall be  
5 considered part of the report.

6 S 3. The penal law is amended by adding a new section 60.14 to read as  
7 follows:

8 S 60.14 AUTHORIZED DEPOSITIONS; CRIMINAL POSSESSION OF A CONTROLLED  
9 SUBSTANCE.

10 1. THE SENTENCE OF ANY PERSON CONVICTED OF A VIOLATION OF SECTION  
11 220.03 OF THIS CHAPTER, CRIMINAL POSSESSION OF A CONTROLLED SUBSTANCE IN  
12 THE SEVENTH DEGREE, SECTION 220.06 OF THIS CHAPTER, CRIMINAL POSSESSION  
13 OF A CONTROLLED SUBSTANCE IN THE FIFTH DEGREE, OR SECTION 221.20 OF THIS  
14 CHAPTER, CRIMINAL POSSESSION OF MARIHUANA IN THE THIRD DEGREE, FOR  
15 EITHER THE FIRST OR SECOND TIME WHO HAS NO PRIOR CONVICTION FOR ANY OF  
16 THE OTHER PROVISIONS OF ARTICLE TWO HUNDRED TWENTY OF THIS CHAPTER AND  
17 ALSO HAS NO PRIOR VIOLENT FELONY CONVICTION SHALL BE CONDITIONALLY  
18 DISCHARGED PROVIDED SUCH PERSON AGREES TO ATTEND, AND SUCCESSFULLY  
19 COMPLETES AN ALTERNATIVE PROGRAM OF SUBSTANCE ABUSE TREATMENT APPROVED  
20 IN ACCORDANCE WITH SECTION TWO HUNDRED FORTY-NINE-A OF THE EXECUTIVE  
21 LAW.

22 2. THE COURT SHALL IMPOSE SUCH A SENTENCE ON THE CONDITION THAT THE  
23 OFFENDER PARTICIPATE IN A SUBSTANCE ABUSE TREATMENT ALTERNATIVE PROGRAM  
24 FOR A SPECIFIED PERIOD OF TIME AS DETERMINED BY THE COURT.

25 3. UPON COMPLETION OF A COURSE OF TREATMENT, THE COURT SHALL TERMINATE  
26 THE SENTENCE IN ACCORDANCE WITH THE PROVISIONS OF SECTION 410.90 OF THE  
27 CRIMINAL PROCEDURE LAW. IF THE COURT DETERMINES THAT THE OFFENDER  
28 ABSCONDED FROM THE SUBSTANCE ABUSE TREATMENT ALTERNATIVE PROGRAM OR THAT  
29 THE SENTENCE IS NO LONGER SUITABLE BECAUSE IT ENDANGERS THE SAFETY,  
30 SECURITY OR ORDER OF SUCH TREATMENT FACILITY OR THAT THE OFFENDER OTHER-  
31 WISE VIOLATES THE TERMS AND CONDITIONS OF THE SENTENCE, THE SENTENCE MAY  
32 BE REVOKED. UPON REVOCATION, THE OFFENDER SHALL BE SENTENCED IN ACCORD-  
33 ANCE WITH THE OTHER PROVISIONS OF THIS CHAPTER APPLICABLE TO PERSONS  
34 CONVICTED OF CRIMINAL POSSESSION OF A CONTROLLED SUBSTANCE OR CRIMINAL  
35 POSSESSION OF MARIHUANA, AS THE CASE MAY BE.

36 4. THE COURT SHALL CONDUCT AN ONGOING EVALUATION OF THE PROGRAM. THE  
37 COURT SHALL UNDERTAKE STUDIES IN CONJUNCTION WITH THE DIVISION OF  
38 PROBATION AND CORRECTIONAL ALTERNATIVES, THE DIVISION OF PAROLE AND THE  
39 OFFICE OF ALCOHOLISM AND SUBSTANCE ABUSE SERVICES TO ENSURE THAT THE  
40 PROGRAMMATIC OBJECTIVES ARE MET.

41 S 4. This act shall take effect on the one hundred eightieth day after  
42 it shall have become a law.