

1675

2011-2012 Regular Sessions

I N S E N A T E

January 11, 2011

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

AN ACT to amend the executive law, in relation to requiring all felony and misdemeanor convicts, including youthful offenders, be designated offenders for DNA submission

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

1 Section 1. Subdivision 7 of section 995 of the executive law, as
2 amended by chapter 2 of the laws of 2006, paragraph (a) as separately
3 amended by chapter 320 of the laws of 2006 and paragraph (f) as amended
4 by chapter 405 of the laws of 2010, is amended to read as follows:
5 7. "Designated offender" means a person convicted of and sentenced for
6 [any one or more of the following provisions of the penal law (a)
7 sections 120.05, 120.10, and 120.11, relating to assault; sections
8 125.15 through 125.27 relating to homicide; sections 130.25, 130.30,
9 130.35, 130.40, 130.45, 130.50, 130.65, 130.67 and 130.70, relating to
10 sex offenses; sections 205.10, 205.15, 205.17 and 205.19, relating to
11 escape and other offenses, where the offender has been convicted within
12 the previous five years of one of the other felonies specified in this
13 subdivision; or sections 255.25, 255.26 and 255.27, relating to incest,
14 a violent felony offense as defined in subdivision one of section 70.02
15 of the penal law, attempted murder in the first degree, as defined in
16 section 110.00 and section 125.27 of the penal law, kidnapping in the
17 first degree, as defined in section 135.25 of the penal law, arson in
18 the first degree, as defined in section 150.20 of the penal law,
19 burglary in the third degree, as defined in section 140.20 of the penal
20 law, attempted burglary in the third degree, as defined in section
21 110.00 and section 140.20 of the penal law, a felony defined in article
22 four hundred ninety of the penal law relating to terrorism or any
23 attempt to commit an offense defined in such article relating to terror-
24 ism which is a felony; or (b) criminal possession of a controlled

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

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1 substance in the first degree, as defined in section 220.21 of the penal
2 law; criminal possession of a controlled substance in the second degree,
3 as defined in section 220.18 of the penal law; criminal sale of a
4 controlled substance, as defined in article 220 of the penal law; or
5 grand larceny in the fourth degree, as defined in subdivision five of
6 section 155.30 of the penal law; or (c) any misdemeanor or felony
7 defined as a sex offense or sexually violent offense pursuant to para-
8 graph (a), (b) or (c) of subdivision two or paragraph (a) of subdivision
9 three of section one hundred sixty-eight-a of the correction law; or (d)
10 any of the following felonies, or an attempt thereof where such attempt
11 is a felony offense:

12 aggravated assault upon a person less than eleven years old, as
13 defined in section 120.12 of the penal law; menacing in the first
14 degree, as defined in section 120.13 of the penal law; reckless endan-
15 germent in the first degree, as defined in section 120.25 of the penal
16 law; stalking in the second degree, as defined in section 120.55 of the
17 penal law; criminally negligent homicide, as defined in section 125.10
18 of the penal law; vehicular manslaughter in the second degree, as
19 defined in section 125.12 of the penal law; vehicular manslaughter in
20 the first degree, as defined in section 125.13 of the penal law;
21 persistent sexual abuse, as defined in section 130.53 of the penal law;
22 aggravated sexual abuse in the fourth degree, as defined in section
23 130.65-a of the penal law; female genital mutilation, as defined in
24 section 130.85 of the penal law; facilitating a sex offense with a
25 controlled substance, as defined in section 130.90 of the penal law;
26 unlawful imprisonment in the first degree, as defined in section 135.10
27 of the penal law; custodial interference in the first degree, as defined
28 in section 135.50 of the penal law; criminal trespass in the first
29 degree, as defined in section 140.17 of the penal law; criminal tamper-
30 ing in the first degree, as defined in section 145.20 of the penal law;
31 tampering with a consumer product in the first degree, as defined in
32 section 145.45 of the penal law; robbery in the third degree as defined
33 in section 160.05 of the penal law; identity theft in the second degree,
34 as defined in section 190.79 of the penal law; identity theft in the
35 first degree, as defined in section 190.80 of the penal law; promoting
36 prison contraband in the first degree, as defined in section 205.25 of
37 the penal law; tampering with a witness in the third degree, as defined
38 in section 215.11 of the penal law; tampering with a witness in the
39 second degree, as defined in section 215.12 of the penal law; tampering
40 with a witness in the first degree, as defined in section 215.13 of the
41 penal law; criminal contempt in the first degree, as defined in subdivi-
42 sions (b), (c) and (d) of section 215.51 of the penal law; aggravated
43 criminal contempt, as defined in section 215.52 of the penal law; bail
44 jumping in the second degree, as defined in section 215.56 of the penal
45 law; bail jumping in the first degree, as defined in section 215.57 of
46 the penal law; patronizing a prostitute in the second degree, as defined
47 in section 230.05 of the penal law; patronizing a prostitute in the
48 first degree, as defined in section 230.06 of the penal law; promoting
49 prostitution in the second degree, as defined in section 230.30 of the
50 penal law; promoting prostitution in the first degree, as defined in
51 section 230.32 of the penal law; compelling prostitution, as defined in
52 section 230.33 of the penal law; disseminating indecent materials to
53 minors in the second degree, as defined in section 235.21 of the penal
54 law; disseminating indecent materials to minors in the first degree, as
55 defined in section 235.22 of the penal law; riot in the first degree, as
56 defined in section 240.06 of the penal law; criminal anarchy, as defined

1 in section 240.15 of the penal law; aggravated harassment of an employee
2 by an inmate, as defined in section 240.32 of the penal law; unlawful
3 surveillance in the second degree, as defined in section 250.45 of the
4 penal law; unlawful surveillance in the first degree, as defined in
5 section 250.50 of the penal law; endangering the welfare of a vulnerable
6 elderly person in the second degree, as defined in section 260.32 of the
7 penal law; endangering the welfare of a vulnerable elderly person in the
8 first degree, as defined in section 260.34 of the penal law; use of a
9 child in a sexual performance, as defined in section 263.05 of the penal
10 law; promoting an obscene sexual performance by a child, as defined in
11 section 263.10 of the penal law; possessing an obscene sexual perform-
12 ance by a child, as defined in section 263.11 of the penal law; promot-
13 ing a sexual performance by a child, as defined in section 263.15 of the
14 penal law; possessing a sexual performance by a child, as defined in
15 section 263.16 of the penal law; criminal possession of a weapon in the
16 third degree, as defined in section 265.02 of the penal law; criminal
17 sale of a firearm in the third degree, as defined in section 265.11 of
18 the penal law; criminal sale of a firearm to a minor, as defined in
19 section 265.16 of the penal law; unlawful wearing of a body vest, as
20 defined in section 270.20 of the penal law; hate crimes as defined in
21 section 485.05 of the penal law; and crime of terrorism, as defined in
22 section 490.25 of the penal law] (A) A MISDEMEANOR DEFINED IN THE PENAL
23 LAW OR A FELONY DEFINED IN THE PENAL LAW OR A PERSON ADJUDICATED A
24 YOUTHFUL OFFENDER PURSUANT TO ARTICLE SEVEN HUNDRED TWENTY OF THE CRIMI-
25 NAL PROCEDURE LAW FOR ANY SUCH MISDEMEANOR OR FELONY; or [(e)] (B) a
26 felony defined in the penal law or an attempt thereof where such attempt
27 is a felony; or [(f)] (C) any of the following misdemeanors: assault in
28 the third degree as defined in section 120.00 of the penal law;
29 attempted aggravated assault upon a person less than eleven years old,
30 as defined in section 110.00 and section 120.12 of the penal law;
31 attempted menacing in the first degree, as defined in section 110.00 and
32 section 120.13 of the penal law; menacing in the second degree as
33 defined in section 120.14 of the penal law; menacing in the third degree
34 as defined in section 120.15 of the penal law; reckless endangerment in
35 the second degree as defined in section 120.20 of the penal law; stalk-
36 ing in the fourth degree as defined in section 120.45 of the penal law;
37 stalking in the third degree as defined in section 120.50 of the penal
38 law; attempted stalking in the second degree, as defined in section
39 110.00 and section 120.55 of the penal law; criminal obstruction of
40 breathing or blood circulation as defined in section 121.11 of the penal
41 law; forcible touching as defined in section 130.52 of the penal law
42 regardless of the age of the victim; sexual abuse in the third degree as
43 defined in section 130.55 of the penal law regardless of the age of the
44 victim; unlawful imprisonment in the second degree as defined in section
45 135.05 of the penal law regardless of the age of the victim; attempted
46 unlawful imprisonment in the first degree, as defined in section 110.00
47 and section 135.10 of the penal law regardless of the age of the victim;
48 criminal trespass in the second degree as defined in section 140.15 of
49 the penal law; possession of burglar's tools as defined in section
50 140.35 of the penal law; petit larceny as defined in section 155.25 of
51 the penal law; endangering the welfare of a child as defined in section
52 260.10 of the penal law; endangering the welfare of an incompetent or
53 physically disabled person as defined in section 260.25 of the penal
54 law.

55 S 2. This act shall take effect on the first of November next succeed-
56 ing the date on which it shall have become a law.