

2725

2011-2012 Regular Sessions

I N S E N A T E

January 31, 2011

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

AN ACT to amend the penal law, in relation to the crime of persistent criminal contempt

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

1 Section 1. The penal law is amended by adding a new section 60.15 to
2 read as follows:

3 S 60.15 AUTHORIZED DISPOSITIONS; PERSISTENT CRIMINAL CONTEMPT.

4 1. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, WHEN A PERSON IS
5 SENTENCED UPON A CONVICTION OF, OR UPON A YOUTHFUL OFFENDER ADJUDICATION
6 FOR, THE CRIME OF PERSISTENT CRIMINAL CONTEMPT AS DEFINED IN SECTION
7 215.47 OF THIS CHAPTER, THE COURT SHALL SENTENCE THE DEFENDANT TO
8 EITHER:

9 (A) A DEFINITE SENTENCE OF IMPRISONMENT, THE TERM OF WHICH SHALL BE AT
10 LEAST SIXTY DAYS AND SHALL NOT EXCEED ONE YEAR; OR

11 (B) A SENTENCE OF PROBATION AND IMPRISONMENT IN ACCORDANCE WITH THE
12 PROVISIONS OF PARAGRAPH (D) OF SUBDIVISION TWO OF SECTION 60.01 OF THIS
13 ARTICLE APPLICABLE TO MISDEMEANOR CONVICTIONS; PROVIDED, HOWEVER, THAT
14 THE TERM OF IMPRISONMENT IMPOSED PURSUANT TO THIS SUBDIVISION SHALL BE
15 SIXTY DAYS. THE COURT SHALL REQUIRE, AS A CONDITION OF ANY SENTENCE OF
16 PROBATION IMPOSED PURSUANT TO THIS PARAGRAPH, THAT THE DEFENDANT SUBMIT
17 TO ELECTRONIC MONITORING IN ACCORDANCE WITH THE PROVISIONS OF SUBDIVI-
18 SION FOUR OF SECTION 65.10 OF THIS TITLE.

19 2. THE RELEVANT PROVISIONS OF SECTION 60.27 OF THIS ARTICLE RELATING
20 TO RESTITUTION AND REPARATION, AND THE RELEVANT PROVISIONS OF SECTION
21 60.35 OF THIS ARTICLE RELATING TO THE IMPOSITION OF A MANDATORY
22 SURCHARGE, CRIME VICTIM ASSISTANCE FEE AND OTHER APPLICABLE FEES OR
23 SURCHARGES, SHALL ALSO APPLY TO ANY SENTENCE IMPOSED PURSUANT TO THIS
24 SECTION.

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

LBD06358-01-1

1 S 2. The penal law is amended by adding a new section 215.47 to read
2 as follows:

3 S 215.47 PERSISTENT CRIMINAL CONTEMPT.

4 A PERSON IS GUILTY OF PERSISTENT CRIMINAL CONTEMPT WHEN HE OR SHE
5 COMMITS THE CRIME OF CRIMINAL CONTEMPT IN THE SECOND DEGREE AS DEFINED
6 IN SUBDIVISION THREE OF SECTION 215.50 OF THIS ARTICLE BY VIOLATING THAT
7 PART OF A DULY SERVED ORDER OF PROTECTION, OR SUCH ORDER OF WHICH THE
8 DEFENDANT HAS ACTUAL KNOWLEDGE BECAUSE HE OR SHE WAS PRESENT IN COURT
9 WHEN SUCH ORDER WAS ISSUED, UNDER SECTIONS TWO HUNDRED FORTY AND TWO
10 HUNDRED FIFTY-TWO OF THE DOMESTIC RELATIONS LAW, ARTICLES FOUR, FIVE,
11 SIX AND EIGHT OF THE FAMILY COURT ACT OR SECTION 530.12 OR 530.13 OF THE
12 CRIMINAL PROCEDURE LAW, OR AN ORDER OF PROTECTION ISSUED BY A COURT OF
13 COMPETENT JURISDICTION IN ANOTHER STATE, TERRITORIAL OR TRIBAL JURISDIC-
14 TION AND WHERE THE DEFENDANT HAS EITHER:

15 (A) PREVIOUSLY BEEN CONVICTED OF THE CRIME OF: (I) AGGRAVATED CRIMINAL
16 CONTEMPT AS DEFINED IN SECTION 215.52 OF THIS ARTICLE, (II) CRIMINAL
17 CONTEMPT IN THE FIRST DEGREE AS DEFINED IN SECTION 215.51 OF THIS ARTI-
18 CLE, (III) CRIMINAL CONTEMPT IN THE SECOND DEGREE AS DEFINED IN SUBDIVI-
19 SION THREE OF SECTION 215.50 OF THIS ARTICLE FOR VIOLATING THAT PART OF
20 A DULY SERVED ORDER OF PROTECTION, OR SUCH ORDER OF WHICH THE DEFENDANT
21 HAD ACTUAL KNOWLEDGE BECAUSE HE OR SHE WAS PRESENT IN COURT WHEN SUCH
22 ORDER WAS ISSUED, UNDER SECTIONS TWO HUNDRED FORTY AND TWO HUNDRED
23 FIFTY-TWO OF THE DOMESTIC RELATIONS LAW, ARTICLES FOUR, FIVE, SIX AND
24 EIGHT OF THE FAMILY COURT ACT OR SECTION 530.12 OR 530.13 OF THE CRIMI-
25 NAL PROCEDURE LAW, OR AN ORDER OF PROTECTION ISSUED BY A COURT OF COMPE-
26 TENT JURISDICTION IN ANOTHER STATE, TERRITORIAL OR TRIBAL JURISDICTION,
27 OR (IV) PERSISTENT CRIMINAL CONTEMPT AS DEFINED BY THIS SECTION; OR

28 (B) PREVIOUSLY BEEN FOUND BY ANY COURT OF COMPETENT JURISDICTION TO
29 HAVE WILLFULLY OR INTENTIONALLY VIOLATED AN ORDER OF PROTECTION OR
30 TEMPORARY ORDER OF PROTECTION IN ACCORDANCE WITH THE APPLICABLE
31 PROVISIONS OF THE JUDICIARY LAW, DOMESTIC RELATIONS LAW OR FAMILY COURT
32 ACT.

33 PERSISTENT CRIMINAL CONTEMPT IS A CLASS A MISDEMEANOR.

34 S 3. This act shall take effect on the first of November next succeed-
35 ing the date on which it shall have become a law.