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

3534

2011-2012 Regular Sessions

I N S E N A T E

February 24, 2011

Introduced by Sens. OPPENHEIMER, DIAZ -- 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 requiring pre-sentence reports and prohibiting the waiver of a written pre-sentence report in instances of family offenses

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

Section 1. The opening paragraph of subdivision 2 of section 390.20 of the criminal procedure law, as amended by chapter 413 of the laws of 1991, is amended to read as follows:

Where a person is convicted of a misdemeanor a pre-sentence report is not required, [but the] EXCEPT THAT A PRE-SENTENCE REPORT SHALL BE REQUIRED IN ANY INSTANCE INVOLVING A FAMILY OFFENSE AS PRESCRIBED IN SUBDIVISION ONE OF SECTION 530.11 OF THIS CHAPTER. THE court may not pronounce any of the following sentences unless it has ordered a pre-sentence investigation of the defendant and has received a written report thereof:

S 2. The closing paragraph of paragraph (a) of subdivision 4 of section 390.20 of the criminal procedure law, as amended by chapter 3 of the laws of 1995, is amended to read as follows:

Provided, however, a pre-sentence investigation of the defendant and a written report thereon shall not be waived if an indeterminate or determinate sentence of imprisonment is to be imposed. PROVIDED, FURTHER, THAT A PRE-SENTENCE INVESTIGATION OF THE DEFENDANT AND A WRITTEN REPORT THEREON SHALL NOT BE WAIVED IN ANY INSTANCE INVOLVING A FAMILY OFFENSE AS PRESCRIBED IN SUBDIVISION ONE OF SECTION 530.11 OF THIS CHAPTER.

S 3. The closing paragraph of paragraph (a) of subdivision 4 of section 390.20 of the criminal procedure law, as added by chapter 413 of the laws of 1991, is amended to read as follows:

Provided, however, a pre-sentence investigation of the defendant and a written report thereon shall not be waived if an indeterminate sentence

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

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of imprisonment is to be imposed. PROVIDED, FURTHER, THAT A PRE-SENTENCE INVESTIGATION OF THE DEFENDANT AND A WRITTEN REPORT THEREON SHALL NOT BE WAIVED IN ANY INSTANCE INVOLVING A FAMILY OFFENSE AS PRESCRIBED IN SUBDIVISION ONE OF SECTION 530.11 OF THIS CHAPTER.

S 4. This act shall take effect immediately, provided that the amendment to the closing paragraph of paragraph (a) of subdivision 4 of section 390.20 of the criminal procedure law made by section two of this act shall be subject to the expiration and reversion of such closing paragraph pursuant to subdivision d of section 74 of chapter 3 of the laws of 1995, as amended, when upon such date the provisions of section three of this act shall take effect.