

6262

I N S E N A T E

January 18, 2012

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 expediting the processing and disposition of such cases and, unless otherwise provided, imposing prison terms that must be served.
21 To accomplish this purpose in an effort to minimize delay in the processing of criminal cases in this state relating to the illegal possession and use of guns and other dangerous weapons there shall be established a separate calendar within the jurisdiction of the criminal
22 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 WHERE-
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.