

6880

I N   S E N A T E

April 4, 2012

---

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

AN ACT to amend the penal law and the criminal procedure law, in relation to establishing terms of probation sentences and revocations thereof under certain circumstances

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

1     Section 1. Subparagraph (i) of paragraph (a) of subdivision 3 of  
2     section 65.00 of the penal law, as amended by section 20 of part AAA of  
3     chapter 56 of the laws of 2009, is amended to read as follows:  
4     (i) For a felony, other than a class A-II felony defined in article  
5     two hundred twenty of this chapter or the class B felony defined in  
6     section 220.48 of this chapter, or any other class B felony defined in  
7     article two hundred twenty of this chapter committed by a second felony  
8     drug offender, or a sexual assault, the period of probation shall be A  
9     TERM OF THREE, FOUR OR five years;  
10    S 2. Subparagraph (i) of paragraph (b) of subdivision 3 of section  
11    65.00 of the penal law, as amended by chapter 264 of the laws of 2003,  
12    is amended to read as follows:  
13    (i) For a class A misdemeanor, other than a sexual assault, the period  
14    of probation shall be A TERM OF TWO OR three years;  
15    S 3. Paragraph (d) of subdivision 3 of section 65.00 of the penal law,  
16    as amended by chapter 264 of the laws of 2003, is amended to read as  
17    follows:  
18    (d) For an unclassified misdemeanor, the period of probation shall be  
19    A TERM OF TWO OR three years if the authorized sentence of imprisonment  
20    is in excess of three months, otherwise the period of probation shall be  
21    one year.  
22    S 4.     Subdivision 4 of section 65.00 of the penal law is renumbered  
23    subdivision 5 and a new subdivision 4 is added to read as follows:  
24    4. IF DURING THE PERIODS OF PROBATION REFERENCED IN SUBPARAGRAPH (I)  
25    OF PARAGRAPH (A), SUBPARAGRAPH (I) OF PARAGRAPH (B) AND PARAGRAPH (D) OF  
26    SUBDIVISION THREE OF THIS SECTION AN ALLEGED VIOLATION IS SUSTAINED AND  
27    THE COURT CONTINUES OR MODIFIES THE SENTENCE, THE COURT MAY EXTEND THE

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

LBD11927-01-1

1 REMAINING PERIOD OF PROBATION UP TO THE MAXIMUM TERM AUTHORIZED BY THIS  
2 SECTION.

3 S 5. Subdivision 5 of section 410.70 of the criminal procedure law, as  
4 amended by chapter 112 of the laws of 1985, is amended to read as  
5 follows:

6 5. Revocation; modification; continuation. At the conclusion of the  
7 hearing the court may revoke, continue or modify the sentence of  
8 probation or conditional discharge. Where the court revokes the  
9 sentence, it must impose sentence as specified in subdivisions three and  
10 four of section 60.01 of the penal law. Where the court continues or  
11 modifies the sentence, it must vacate the declaration of delinquency and  
12 direct that the defendant be released. If the alleged violation is  
13 sustained and the court continues or modifies the sentence, it may  
14 extend the sentence up to the period of interruption specified in subdi-  
15 vision two of section 65.15 of the penal law, but any time spent in  
16 custody in any correctional institution pursuant to section 410.60 of  
17 this article shall be credited against the term of the sentence.  
18 PROVIDED FURTHER, WHERE THE ALLEGED VIOLATION IS SUSTAINED AND THE COURT  
19 CONTINUES OR MODIFIES THE SENTENCE, THE COURT MAY ALSO EXTEND THE  
20 REMAINING PERIOD OF PROBATION UP TO THE MAXIMUM TERM AUTHORIZED BY  
21 SECTION 65.00 OF THE PENAL LAW.

22 S 6. This act shall take effect immediately; provided, however, that  
23 it shall apply to offenses committed on or after the date this act shall  
24 have become a law, and provided, further, however, that it shall also  
25 apply to offenses committed before such date, where the sentence upon  
26 conviction for such offense is imposed no earlier than ten days after  
27 such date.