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

1636

2013-2014 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 9, 2013

Introduced by M. of A. KOLB, TEDISCO, MONTESANO -- Multi-Sponsored by -- M. of A. BARCLAY, CERETTO, CROUCH, CURRAN, FINCH, FITZPATRICK, GIGLIO, JORDAN, OAKS, PALMESANO, RA, RABBITT, RAIA, SALADINO, TENNEY, THIELE -- read once and referred to the Committee on Codes

AN ACT to amend the penal law, in relation to requiring lifetime post-release supervision for certain offenders; and to amend the correction law, in relation to prohibiting good behavior allowances against certain determinate sentences

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

Section 1. Paragraphs (e) and (f) of subdivision 2 of section 70.45 of the penal law, as amended by chapter 7 of the laws of 2007, are amended and two new paragraphs (g) and (h) are added to read as follows:

(e) such period shall be not less than one and one-half years nor more than three years whenever a determinate sentence of imprisonment is imposed pursuant to subdivision three of section 70.02 of this article upon a conviction of a class D or class E violent felony offense EXCEPT WHEN A DETERMINATE SENTENCE OF IMPRISONMENT IS IMPOSED PURSUANT TO SUBDIVISION THREE OF SECTION 70.02 OF THIS ARTICLE UPON A CONVICTION FOR ONE OF THE CRIMES LISTED IN PARAGRAPH (H) OF THIS SUBDIVISION;

(f) such period shall be not less than two and one-half years nor more than five years whenever a determinate sentence of imprisonment is imposed pursuant to subdivision three of section 70.02 of this article upon a conviction of a class B or class C violent felony offense[.] EXCEPT WHEN A DETERMINATE SENTENCE OF IMPRISONMENT IS IMPOSED PURSUANT TO SUBDIVISION THREE OF SECTION 70.02 OF THIS ARTICLE UPON A CONVICTION FOR ONE OF THE CRIMES LISTED IN PARAGRAPH (G) OF THIS SUBDIVISION;

(G) SUCH PERIOD SHALL BE FOR THE LIFE OF A PERSON WHENEVER A DETERMINATE SENTENCE OF IMPRISONMENT IS IMPOSED PURSUANT TO SUBDIVISION THREE OF SECTION 70.02 OF THIS ARTICLE UPON A CONVICTION OF A CLASS B VIOLENT

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

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FELONY OFFENSE WHEN THE CRIME COMMITTED WAS RAPE IN THE FIRST DEGREE AS DEFINED IN SECTION 130.35, CRIMINAL SEXUAL ACT IN THE FIRST DEGREE AS DEFINED IN SECTION 130.50, AGGRAVATED SEXUAL ABUSE IN THE FIRST DEGREE AS DEFINED IN SECTION 130.70 OR COURSE OF SEXUAL CONDUCT AGAINST A CHILD IN THE FIRST DEGREE AS DEFINED IN SECTION 130.75 OF THIS CHAPTER;

(H) SUCH PERIOD SHALL BE FOR THE LIFE OF A PERSON WHENEVER A DETERMINATE SENTENCE OF IMPRISONMENT IS IMPOSED PURSUANT TO SUBDIVISION THREE OF SECTION 70.02 OF THIS ARTICLE UPON A CONVICTION OF A CLASS D VIOLENT FELONY OFFENSE WHEN THE CRIME COMMITTED WAS SEXUAL ABUSE IN THE FIRST DEGREE AS DEFINED IN SECTION 130.65 WHEN THE OTHER PERSON IS LESS THAN ELEVEN YEARS OLD OR COURSE OF SEXUAL CONDUCT AGAINST A CHILD IN THE SECOND DEGREE AS DEFINED IN SECTION 130.80 OF THIS CHAPTER.

S 2. Section 803 of the correction law is amended by adding a new subdivision 1-b to read as follows:

1-B. A PERSON SERVING A DETERMINATE SENTENCE WHO IS SUBJECT TO THE PERIOD OF POST-RELEASE SUPERVISION ESTABLISHED IN PARAGRAPH (G) OR (H) OF SUBDIVISION TWO OF SECTION 70.45 OF THE PENAL LAW SHALL NOT BE ENTITLED TO ANY GOOD BEHAVIOR ALLOWANCE ESTABLISHED IN THIS SECTION.

S 3. This act shall take effect on the first of November next succeeding the date on which it shall have become a law; provided however that the amendments to section 803 of the correction law made by section two of this act shall survive the expiration and reversion of such section as provided in subdivision d of section 74 of chapter 3 of the laws of 1995, as amended.