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

5344

2013-2014 Regular Sessions

I N S E N A T E

May 16, 2013

Introduced by Sen. MARTINS -- 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 terms of imprisonment and electronic monitoring of persons convicted of predatory sexual assault against a child

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

Section 1. Subparagraph (ii) of paragraph (a) of subdivision 3 of section 70.00 of the penal law, as amended by chapter 107 of the laws of 2006, is amended to read as follows:

(ii) For a class A-II felony, such minimum period shall not be less than three years nor more than eight years four months, except that for the class A-II felony of predatory sexual assault as defined in section 130.95 of this chapter [or the class A-II felony of predatory sexual assault against a child as defined in section 130.96 of this chapter], such minimum period shall be not less than ten years nor more than twenty-five years, AND FOR THE CLASS A-II FELONY OF PREDATORY SEXUAL ASSAULT AGAINST A CHILD AS DEFINED IN SECTION 130.96 OF THIS CHAPTER, SUCH MINIMUM PERIOD SHALL BE NOT LESS THAN TWENTY-FIVE YEARS.

S 2. Paragraph (a) of subdivision 4 of section 70.06 of the penal law, as amended by chapter 107 of the laws of 2006, is amended to read as follows:

(a) The minimum period of imprisonment for a second felony offender convicted of a class A-II felony must be fixed by the court at [no] NOT less than six years and not to exceed twelve and one-half years and must be specified in the sentence, except that for the class A-II felony of predatory sexual assault as defined in section 130.95 of this chapter [or the class A-II felony of predatory sexual assault against a child as defined in section 130.96 of this chapter], such minimum period shall be not less than ten years nor more than twenty-five years, AND FOR THE CLASS A-II FELONY OF PREDATORY SEXUAL ASSAULT AGAINST A CHILD AS DEFINED

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

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IN SECTION 130.96 OF THIS CHAPTER, SUCH MINIMUM PERIOD SHALL BE NOT LESS THAN TWENTY-FIVE YEARS.

S 3. Subdivision 4 of section 65.10 of the penal law, as amended by section 46 of part A of chapter 56 of the laws of 2010, is amended to read as follows:

4. Electronic monitoring. (A) When imposing a sentence of probation the court may, in addition to any conditions imposed pursuant to subdivisions two and three of this section, require the defendant to submit to the use of an electronic monitoring device and/or to follow a schedule that governs the defendant's daily movement. Such condition may be imposed only where the court, in its discretion, determines that requiring the defendant to comply with such condition will advance public safety, probationer control or probationer surveillance. Electronic monitoring shall be used in accordance with uniform procedures developed by the office of probation and correctional alternatives.

(B) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (A) OF THIS SUBDIVISION, WHEN IMPOSING A SENTENCE OF PROBATION UPON A PERSON CONVICTED OF PREDATORY SEXUAL ASSAULT AGAINST A CHILD AS DEFINED IN SECTION 130.96 OF THIS CHAPTER, IT SHALL BE MANDATORY FOR THE DEFENDANT TO SUBMIT TO THE USE OF AN ELECTRONIC MONITORING DEVICE IN ACCORDANCE WITH UNIFORM PROCEDURES DEVELOPED BY THE OFFICE OF PROBATION AND CORRECTIONAL ALTERNATIVES.

S 4. This act shall take effect on the one hundred eightieth day after it shall have become a law.