

8054--B

2015-2016 Regular Sessions

I N   A S S E M B L Y

June 5, 2015

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Introduced by M. of A. WOERNER, NOJAY, MONTESANO -- Multi-Sponsored by -- M. of A. McKEVITT, THIELE -- read once and referred to the Committee on Codes -- recommitted to the Committee on Codes in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the criminal procedure law, in relation to enabling the victim of a misdemeanor to make a statement at the sentencing of the defendant; and providing for the repeal of such provisions upon expiration thereof

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

1     Section 1. This act shall be known and may be cited as "Emma's Law".  
2     S 2. Paragraphs (a) and (b) of subdivision 2 of section 380.50 of the  
3 criminal procedure law, paragraph (a) as amended by chapter 499 of the  
4 laws of 1993, subparagraph 2 of paragraph (a) as separately amended by  
5 chapters 173 and 198 of the laws of 1996, and paragraph (b) as added by  
6 chapter 307 of the laws of 1992, are amended to read as follows:  
7     (a) For purposes of this section "victim" shall mean:  
8     (1) the victim as indicated in the accusatory instrument OR AS INDI-  
9 CATED IN THE PRE-SENTENCE INVESTIGATION CONDUCTED PURSUANT TO SECTION  
10 390.20 OF THIS TITLE; or  
11     (2) if such victim is unable or unwilling to express himself or  
12 herself before the court or a person so mentally or physically disabled  
13 as to make it impracticable to appear in court in person or the victim  
14 is deceased, a member of the family of such victim, or the legal guardi-  
15 an or representative of the legal guardian of the victim where such  
16 guardian or representative has personal knowledge of and a relationship  
17 with the victim, unless the court finds that it would be inappropriate  
18 for such person to make a statement on behalf of the victim.

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

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1 (b) If the defendant is being sentenced for a felony OR A MISDEMEANOR,  
2 the court, if requested at least ten days prior to the sentencing date,  
3 shall accord the victim the right to make a statement with regard to any  
4 matter relevant to the question of sentence. The court shall notify the  
5 defendant no less than seven days prior to sentencing of the victim's  
6 intent to make a statement at sentencing. If the defendant does not  
7 receive timely notice pursuant to this subdivision, the defendant may  
8 request a reasonable adjournment.

9 S 3. The opening paragraph of subdivision 2 of section 390.20 of the  
10 criminal procedure law, as amended by chapter 413 of the laws of 1991,  
11 is amended to read as follows:

12 Requirement for misdemeanors. Where a person is convicted of a misde-  
13 meanor a pre-sentence report is not required, but the court may not  
14 pronounce any of the following sentences unless it has ordered a pre-  
15 sentence investigation of the defendant and has received a written  
16 report thereof OR A PRE-SENTENCE INVESTIGATION OF THE DEFENDANT HAS BEEN  
17 REQUESTED BY EITHER THE PROSECUTOR OR THE DEFENDANT AND THE COURT HAS  
18 RECEIVED A WRITTEN REPORT THEREOF:

19 S 4. This act shall take effect immediately and shall expire and be  
20 deemed repealed 2 years after such effective date.